

In The Matter Of:
INDIANA ENVIRONMENTAL RULES BOARD

February 9, 2022

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8
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10
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12
13
14
15
16
17
18
19
20
21
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BEFORE THE STATE OF INDIANA
ENVIRONMENTAL RULES BOARD

- - -

PUBLIC MEETING OF FEBRUARY 9, 2022

- - -

PROCEEDINGS

before the Indiana Environmental Rules Board,
Beverly Gard, Chairman, taken before me, Lindy L.
Meyer, Jr., a Notary Public in and for the State
of Indiana, County of Shelby, at the Indiana
Government Center South, Conference Center,
Room A, 402 West Washington Street, Indianapolis,
Indiana, on Wednesday, February 9, 2022 at 1:34
o'clock p.m.

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1 APPEARANCES:

2 BOARD MEMBERS:

- 3 Beverly Gard, Chairman
- 4 Dr. Ted Niemiec
- 5 Dr. Joanne Alexandrovich
- 6 Carrie Kozyrski
- 7 Ken Rulon
- 8 William Etzler
- 9 Chris Horn
- 10 Michael Schuler
- 11 Calvin Davidson
- 12 Dan Bortner
- 13 Mark A. Wasky, Proxy, Indiana Economic
- 14 Development Corporation
- 15 Shelby Huff, Proxy, Lieutenant
- 16 Governor
- 17
- 18 Brian Rockensuess, IDEM Commissioner
- 19 (Nonvoting)
- 20

12 IDEM STAFF MEMBERS:

- 13 Christine Pedersen
- 14 Keelyn Walsh
- 15 Krystal Hackney
- 16 MaryAnn Stevens
- 17 Nancy King
- 18 Mark Derf
- 19 Paul McMurray
- 20 Paul Higginbotham
- 21 Parvonay Stover
- 22 Kevin Bump

18 PUBLIC SPEAKERS:

- 19 Craig Williams

20 OTHERS PRESENT:

- 21 David Wood
- 22 Richard Hickman

23 - - -

1 1:34 o'clock p.m.
2 February 9, 2022

3 - - -

3 CHAIRMAN GARD: If I could have
4 everybody's attention, I apologize for being a
5 few minutes late, but I couldn't find the link,
6 and so, they had to send it to me. So, it looks
7 as though we have a quorum, and what I'm going to
8 do first is we'll call the meeting to order -- is
9 call the meeting of the Indiana Environmental
10 Rules Board to order, February 9th, 2022 at
11 1:30 p.m., and I'm going to call the roll, and
12 so, if you all can just say present or something.

13 Bill Etzler?

14 (No response.)

15 CHAIRMAN GARD: Bill Etzler?

16 (No response.)

17 CHAIRMAN GARD: I know he's going to
18 be on.

19 Ken Rulon? I think I saw Ken.

20 MR. RULON: Present.

21 CHAIRMAN GARD: Michael Chambers?

22 (No response.)

23 CHAIRMAN GARD: Michael Chambers?

1 (No response.)

2 CHAIRMAN GARD: Bill Etzler just
3 connected.

4 Karen Valiquett?

5 (No response.)

6 CHAIRMAN GARD: Is Karen on? You all
7 will have to remember to unmute your mike.

8 Chris Horn?

9 MR. HORN: Present.

10 CHAIRMAN GARD: R. T. Green?

11 (No response.)

12 CHAIRMAN GARD: Mr. Green?

13 (No response.)

14 CHAIRMAN GARD: Dr. Niemiec?

15 DR. NIEMIEC: Yes, present.

16 CHAIRMAN GARD: Carrie -- and I'm
17 sorry; I can't pronounce her last name.

18 MS. KOZYRSKI: It's Kozyrski.

19 Present.

20 CHAIRMAN GARD: Kozyrski?

21 MS. KOZYRSKI: Yeah.

22 CHAIRMAN GARD: So, is Karen on?

23 MS. VALIQUETT: Yes.

1 CHAIRMAN GARD: Okay. Thank you.

2 Dr. Alexandrovich?

3 DR. ALEXANDROVICH: Present.

4 CHAIRMAN GARD: Cal Davidson?

5 MR. DAVIDSON: Present.

6 CHAIRMAN GARD: Michael Schuler?

7 (No response.)

8 CHAIRMAN GARD: The proxy for the
9 Lieutenant Governor, Katie Nelson?

10 MS. HUFF: This is Shelby Huff. I am
11 filling in for Katie Nelson today as well.

12 CHAIRMAN GARD: Okay. Thank you.

13 The IDNR Executive Director, Dan Bortner?

14 MR. BORTNER: Present.

15 CHAIRMAN GARD: IEDC proxy, Mark
16 Wasky?

17 MR. WASKY: Present.

18 CHAIRMAN GARD: And new Commissioner
19 Brian Rockensuess?

20 COMM. ROCKENSUESS: Present.

21 CHAIRMAN GARD: And I will take this
22 opportunity to welcome Brian as Commissioner. As
23 you all know, and it's certainly been since our

1 last meeting, then Comm. Pigott took a job with
2 U.S. EPA in Washington, and so he's not with us,
3 and Brian is now the new Commissioner, and from
4 everybody I've talked to, he's doing a great job.

5 I think the legislature is driving you
6 crazy, but --

7 COMM. ROCKENSUESS: Yeah.

8 CHAIRMAN GARD: -- but thank you.
9 You're doing a great job.

10 And Brian certainly understands the
11 issues. He's worked with us for a very long
12 time.

13 So, welcome, Brian, as Commissioner.

14 COMM. ROCKENSUESS: Thank you.

15 CHAIRMAN GARD: You're welcome.

16 Okay. And also, Carrie, with Duke Energy,
17 I'm not going to pronounce your last name again.
18 I'm just going to butcher it.

19 MS. KOZYRSKI: That's okay.

20 CHAIRMAN GARD: Carrie is replacing
21 Angelique Collier, who left the Board and was
22 also, I think, with Duke.

23 So, now -- it's not going to be Ryan.

1 It's -- what did you say; Kevin?

2 MS. BUMP: Yes, it's Kevin.

3 CHAIRMAN GARD: Okay. Yeah.

4 Kevin is going to go over the procedure
5 for handling testimony and so forth.

6 MS. BUMP: Yes. Thank you. And
7 thank you for joining us today. My name is Kevin
8 Bump. I'm representing IDEM's Media and
9 Communications Services today.

10 We will be taking questions and comments
11 from the public at today's meeting when the
12 public is called upon. For those members of the
13 public in the meeting room in person today,
14 please be sure to complete a speaker card if you
15 would like to speak. Speaker cards are located
16 on the table at the entrance and should be given
17 to Karla Kindrick when completed.

18 Karla, raise your hand. Yeah.

19 For those joining us via Zoom, if you
20 would like to speak, please utilize the raised
21 hand or chat feature in order to be recognized.
22 To access the raised hand and chat feature, at
23 the bottom or top of your screen, depending on

1 your device, you'll see a menu bar, and you may
2 have to move your mouse or touch your screen for
3 the menu bar to pop up.

4 In the middle of that menu bar, there's a
5 chat icon, which you can click on to show the
6 chat dialogue. You should also see the raised
7 hand option. Please utilize the raised hand or
8 chat features if you have any questions or
9 comments, and you'll be called upon at the
10 appropriate time.

11 For those joining us by phone, if you have
12 a question or comment, you can raise your hand by
13 pressing star nine. When called upon, you'll
14 need to unmute your phone by pressing star six.
15 For everyone on today's meeting, please identify
16 yourself when speaking.

17 If any members of the media have joined us
18 via Zoom, please utilize the chat feature or
19 e-mail media@idem.in.gov if you have any
20 questions.

21 This meeting is being recorded and will be
22 posted on IDEM's Web site.

23 With that, I'll turn the meeting back over

1 to Chairwoman Gard.

2 CHAIRMAN GARD: Thank you, Kevin.
3 Thank you very much.

4 Our first order of business today is to
5 approve the summary of the minutes from the
6 November 10th, 2021 Board meeting. Are there any
7 additions or corrections to the minutes as
8 distributed?

9 (No response.)

10 CHAIRMAN GARD: If not, do I hear a
11 motion to approve?

12 DR. NIEMIEC: So moved. This is Ted
13 Niemiec.

14 CHAIRMAN GARD: Is there a second?

15 MR. RULON: Ken Rulon, second.

16 CHAIRMAN GARD: All if favor, say
17 aye.

18 (Board members responded, "Aye.")

19 CHAIRMAN GARD: This is just voice
20 vote. All -- any opposed, say nay.

21 (No response.)

22 CHAIRMAN GARD: Hearing none, the
23 minutes are approved unanimously.

1 Now we go to IDEM reports, and the first
2 report will be from Comm. Rockensuess.

3 COMM. ROCKENSUESS: Good afternoon,
4 everyone, and thanks for being here, either in
5 person or virtually.

6 I've been on the job now in this role
7 two -- almost two months, and it's quite the
8 whirlwind. I will not advocate for taking on
9 this kind of a job walking into a legislative
10 session, but it's been good. We're doing good
11 work. The metrics are still -- we're really
12 doing well in our permits metric and our
13 compliance metric. Just a reminder, you know, we
14 want to get our permits down to within 25 percent
15 of the time frames. I believe we're at an
16 average of 60 of time frames across the agency.

17 Our compliance metric, we set that in
18 motion a couple of years ago. We wanted seven
19 days. We're averaging 4.3 days. So, we're
20 really moving well on our core metrics.

21 You know, coming into this role, I started
22 thinking, what projects or initiatives do I want
23 to take on that maybe are already in the works,

1 or a little different from what Bruno was
2 focusing on?

3 I have five of them, one of which is lead
4 contamination. So, there's a number of sites
5 around the state that are dealing with lead
6 contamination in some way or another, and some of
7 them don't fall within an IDEM or EPA program.

8 And so, I'm really trying to work with our
9 folks here at IDEM, and then leveraging some EPA
10 resources and people, to figure out how we can
11 clean up these sites so that people aren't living
12 within lead contamination. And so, that's one
13 that I've been working pretty closely with since
14 I took over.

15 Solid waste is another topic. You may be
16 hearing about solid waste from the legislature,
17 and I can cover that bill in a minute. There is
18 a bill that's called 1226. It's Rep. Speedy's
19 bill, but I started trying to tackle solid waste
20 prior to the legislature starting.

21 And so, the issue I found is that we have
22 a legitimate use approval, and we have a solid
23 waste processing permit, and that's about the

1 only options you have if you're wanting to deal
2 with any kind of recycling activity, whether
3 that's steel or plastics or whatever it is that
4 you want to reuse. Those are the two options.

5 And the solid waste processing permit is
6 pretty involved, and it has a heavy permit fee
7 attached to it, and so, many of these smaller
8 companies that are getting into this world and
9 have great ideas simply aren't able to do so, or
10 they don't even know that they need a permit
11 until we show up at their door.

12 And so, I have tasked a group of
13 individuals internally, and I have created an
14 external group led by Bruce Palin and Cal
15 Davidson to start looking at what kind of
16 regulatory scheme can we create to allow people
17 to be innovative and reuse or recycle material
18 without having to get some massive permit that,
19 frankly, much of that permit may not apply to
20 what they're actually doing. So, that is
21 ongoing. That might be affected by the bill, so
22 we'll see how that ends up.

23 Environmental justice has been a major

1 issue that all states are trying to tackle, it
2 was a priority of the Biden Administration as
3 they came into office, and so, we're really
4 trying to figure out what does that mean, each
5 state is, and how would we address the concerns
6 of environmental justice?

7 Many states are being thrown into Title VI
8 lawsuits, Civil Rights Act lawsuits, for the fact
9 that people are living in areas and it's against
10 their civil rights to be living in an area that's
11 not the same condition as somebody else in
12 another area. And so, we're all trying to
13 grapple with how do we do this? How does this
14 affect our permitting? Do we try to attack
15 environmental justice issues through compliance
16 enforcement?

17 And so, we're working really closely with
18 EPA to figure that out and figure out the next --
19 how to go down this road. We do have a site in
20 East Chicago who received a letter asking the
21 agency to do an environmental assessment. What
22 does the air, land and water look like in that
23 area?

1 And so, we are working towards figuring
2 out how to do the environmental assessment by
3 using existing data, and we're going to start
4 doing some community outreach to see what is it
5 that is actually bothering them. Maybe it's not
6 pollution at all, maybe it's something else, and
7 how can we help them get to where they want to
8 go?

9 Two more things quickly. There's -- our
10 Office of Air Quality, we're relooking at our fee
11 structure. You know, two years ago this Board
12 passed fees, I think we increased the fees 27
13 percent, and it was about two million dollars.
14 That took our funding from nine million to 11
15 million.

16 Today that funding's back down to nine
17 million, and it's because the Office of Air
18 Quality's fee structure is based on emissions and
19 the state has done a pretty good job of reducing
20 emissions. So, now we have less money to run our
21 program, even though we need the same amount of
22 money to run the program, regardless of the
23 emission level.

1 So, we are looking at different ways that
2 that should be structured. We will make emission
3 based fees so that we don't have to continue --
4 continually you try to find money to fund the
5 program.

6 And then finally, this is a real cool
7 opportunity for the state. IDEM and Department
8 of Homeland Security teamed up and we have a
9 program where we will start collecting PFAS foam
10 from fire stations, and we've -- each agency
11 found some money. It is an item on the
12 Governor's agenda, and the RFP is out on the
13 street right now, and we will be, hopefully by
14 March, collecting this foam from fire stations
15 around the state. So, that was a really cool
16 thing. It started under Bruno. I was happy to
17 continue that, because it's a very good
18 opportunity.

19 And with that, that's kind of my update.
20 I'm happy to take any questions, happy to talk
21 about the legislation if you'd like me to. I am
22 trying to, you know, wean off the legislative
23 side of things, but as some of you know on this

1 call or in the room, that's hard to do, it seems.
2 So -- but I have a good staff and they're taking
3 care of it, so --

4 CHAIRMAN GARD: Commissioner, I
5 have -- I have a question. In reading some of
6 the bills that were being considered in the first
7 half, and I don't know what's happened to them,
8 but there seemed to be kind of a movement with
9 some people to address rulemaking by agencies
10 with just basically saying, "You can't do it."
11 Are any of those bills moving that would restrict
12 rulemaking?

13 COMM. ROCKENSUESS: Yes.

14 CHAIRMAN GARD: And I actually had
15 some conversations with a few legislators who
16 happened to be on a couple of these bills, and I
17 was pretty astounded to find out that they didn't
18 realize that each agency basically had a
19 different process for doing rules. They had no
20 idea that IDEM's -- realistically the agency
21 doesn't do the rule, it's the rulemaking board,
22 which is appointed by the Governor, that does the
23 rule. DNR is different than IDEM, and different

1 from all of the other agencies. So, a lot of
2 homework hasn't been done on rulemaking, but they
3 want to -- want you not to be able to do it.
4 What's happening there?

5 COMM. ROCKENSUESS: So, that is --
6 the bill you're referring to is House Bill 1100.
7 That passed out of the House 61 to 29, so it kind
8 of went on party lines. The sponsors in the
9 Senate are Chris Garten, Mark Messmer and Blake
10 Doriot, and I don't know what's going to happen
11 in the Senate with that bill. I do know that the
12 author is now becoming aware that the process
13 that the Environmental Rules Board goes through
14 is unlike any other in the state, and it's laid
15 out in Title 13, not in Title 4.

16 So, hopefully -- I mean from an
17 administrative standpoint, the whole
18 administration's against this bill. From an IDEM
19 standpoint, if there's some way to remove this
20 Board and our process from this bill, that would
21 be great, but because it's -- it affects every
22 single agency, it is -- it is being handled by
23 the Governor's Office.

1 And some of the items in the bill, just
2 for everybody's information, it changes the
3 sunset from seven years to four years, which for
4 the Environmental Rules Board would be really
5 tough. You guys would have to meet all of the
6 time, or at least a lot more than we currently
7 do, because it takes so long for the rules to get
8 to the point in which you are adopting them. So,
9 we'd get done with a rule, if it's quick, in 18
10 months, and then literally a year later have to
11 start doing that rulemaking process again for
12 that same rule.

13 There's some Attorney General overview in
14 the bill. There is a complete "no more stringent
15 than," so currently in law, IDEM can do -- or the
16 Board can pass a no more stringent rule, but it
17 has to sit in front of the legislature for a
18 session, and they can act on it if they want to.
19 This would just outright ban anything more
20 stringent than even if it was a directive from
21 the state.

22 I think there's one more piece to it, but
23 all of which -- a lot of these things we already

1 do and we already are, in a sense, heavily
2 regulated with our rulemaking, and I don't think
3 that many people, like you said, Chairman, know
4 that we are.

5 CHAIRMAN GARD: No, I don't think
6 they do at all. And I think it could be argued
7 by somebody that the way it is now, we wouldn't
8 fall under the rule, because the agency doesn't
9 make the rule, it's the Board that makes the
10 rule.

11 COMM. ROCKENSUESS: That's right.

12 CHAIRMAN GARD: I would think that
13 there could be a good argument that we would
14 be -- that it wouldn't affect us. But anyway,
15 this has concerned me a lot.

16 Thank you.

17 COMM. ROCKENSUESS: Yeah.

18 CHAIRMAN GARD: Any questions for the
19 Commissioner?

20 MR. RULON: Yeah, Chairman Gard, this
21 is Ken Rulon.

22 Brian, I was just wondering, with the air
23 quality, how much of this shortfall on funding is

1 recovered if we just take out the three down
2 months of 2020, you know, if we get back to
3 normal levels? You mentioned we were a couple
4 million short. Is that caused by the shutdown,
5 or has that already been accounted for in your
6 presentation?

7 Thank you.

8 COMM. ROCKENSUESS: That -- yeah,
9 Ken, that's already been accounted for, and we
10 did see some reduction, but not enough to have
11 the impact that we're seeing. A lot of the
12 impact is, frankly, from power plants shutting
13 down and moving to natural gas. Our SO2 emissions
14 went down, and Matt Stuckey would be able to give
15 you a better number, but close to 90-something
16 percent. It was a huge drop, because they're
17 shutting down coal units.

18 So, as more industries move that way,
19 which isn't a horrible thing for our air quality,
20 but it does impact us. And we haven't really
21 figured out yet what that new way is going to
22 look like. We're starting to have those
23 conversations now. And so, as we get to a point

1 in which we have some options, we'll certainly
2 cue you guys in, get feedback from everybody.

3 And I forgot to introduce my new Chief of
4 Staff. She's on the call as well. Her name's
5 Parvonay Stover, she previously -- prior to
6 working here with me at IDEM, she worked at the
7 Department of Corrections, the Attorney General's
8 Office, and Department of Child Services, in a
9 number of different capacities, and a lot of
10 legislative experience. She has a lot of great
11 state experience and know-how in navigating
12 government. And so, she was a phenomenal pick
13 for me, and I'm happy she's here keeping me in
14 check.

15 CHAIRMAN GARD: Okay.

16 Any more questions?

17 (No response.)

18 CHAIRMAN GARD: Okay. Seeing none,
19 we'll move on. Chris Pederson, with the
20 Rulemaking Report.

21 MS. PEDERSEN: Good afternoon. I'm
22 Chris Pedersen, in the Rules Development Branch
23 of the Office of Legal Counsel.

1 We do not have a tentative date scheduled
2 for the next Board meeting. While we do have
3 several rules that are in process right now, we
4 don't have any that look like they're going to be
5 likely to be at a point where they can be
6 presented to the Board within the next few
7 months. So, we're going to be keeping an eye on
8 the rules, and when we start getting rules that
9 look like they are ready to be presented, then
10 we'll make a recommendation about an upcoming
11 Board date.

12 So, that is my report, but I'd be happy to
13 answer any other questions about rulemaking.

14 CHAIRMAN GARD: Okay. Chris, there's
15 a kind of an echo, I think because you're in such
16 a big room with not many people, so you did say
17 that the normal Board meeting, what, May, may not
18 be necessary?

19 MS. PEDERSEN: Correct.

20 CHAIRMAN GARD: Okay.

21 Any other questions of Chris?

22 (No response.)

23 CHAIRMAN GARD: Okay. Thank you,

1 Chris.

2 Today we have hearings on the following
3 Board actions: Adoption of State SO2 and Porter
4 County Ozone Designations; the final adoption of
5 Satellite Manure Storage Structure Reference
6 Updates; Public Water System Definition; Water
7 Program Permitting Fees; and Waste Program
8 Permitting Fees.

9 We will also have the following nonrule
10 presentations: A Nonrule Policy Document on
11 Guidance to Predicting a High Ozone Level Day for
12 Sources Subject to 326 IAC 8-13; the 2022 List of
13 Impaired Waters and Consolidated Assessment and
14 Listing Methodology under Section 303(d) of the
15 Clean Water Act; an update on the Citizen's
16 Petition to request rulemaking on the 2012 EPA
17 Recreational Water Quality Criteria.

18 As a reminder, if you wish to testify in
19 any of today's hearings, please fill out a
20 comment card and give it to Karla Kindrick at the
21 sign-in table if you're in the big room. If
22 you're attending via Zoom, please let Ryan know
23 if you wish to testify at any of the hearings.

1 regarding the designations for Porter County for
2 ozone.

3 I will now introduce Exhibit A, the draft
4 rule, into the record of the hearing.

5 Keelyn Walsh will present the rule.

6 MS. WALSH: Good afternoon, members
7 of the Board. I'm Keelyn Walsh, with the Rules
8 Development Section of the Office of Legal
9 Counsel, and I'm here to present Rule No. 21-515,
10 State Sulfur Dioxide and Porter County Ozone
11 Designations for your consideration.

12 This rulemaking updates attainment
13 designation statuses for 90 of Indiana's 92
14 counties for SO2 to accurately reflect the federal
15 language used in the Code of Federal Regulations
16 at 40 CFR 81.315. This rulemaking also updates
17 the designation status of Porter County under the
18 2015 eight-hour ozone NAAQS based on the final
19 rule published by U.S. EPA in the Federal
20 Register on June 14th, 2021. In order to avoid
21 conflict with ongoing litigation concerning a
22 challenge to the designation status for several
23 townships in Huntington County, the rule language

1 for that county differs from what's currently
2 reflected in 40 CFR 81.315 and will be updated,
3 if necessary, once the challenge is resolved.

4 Daviness and Pike Counties were omitted
5 from this rulemaking and were included in the
6 final rule that was adopted at the November 10th,
7 2021 Board meeting, which amended the attainment
8 designation status for the 2010 one-hour primary
9 NAAQS for SO₂ for townships in both counties.
10 This separate rule was initiated to ensure the
11 timely update of the 2010 attainment status for
12 those two counties, and also included the updates
13 for both the primary one-hour SO₂ standard and
14 the 1971 secondary three-hour SO₂ standards from
15 this rulemaking to avoid confusion and any
16 potential crossover errors between the two rules.

17 The updates to the attainment designation
18 status for the 90 Indiana counties contained in
19 this rulemaking are a direct adoption of federal
20 requirements and will have no fiscal impact for
21 the state or sources beyond what's already
22 imposed by federal law. This rule will ensure
23 that state rules are consistent with federal

1 standards, and therefore, IDEM requests that the
2 Board final adopt this rule as presented, and I
3 am available to answer any further questions you
4 may have.

5 Thank you.

6 CHAIRMAN GARD: Does anyone have a
7 question for Keelyn?

8 (No response.)

9 CHAIRMAN GARD: Are there any speaker
10 cards?

11 MS. KINDRICK: No, ma'am.

12 DR. ALEXANDROVICH: I do have a
13 question, Chair Gard.

14 CHAIRMAN GARD: Yes. Go ahead.

15 DR. ALEXANDROVICH: Joanne
16 Alexandrovich.

17 Can you briefly tell us the nature of the
18 litigation regarding Huntington County?

19 MS. WALSH: I cannot, no. I didn't
20 get that information prior to the meeting, but
21 I'm happy to see if I can find that information
22 out from program staff or our legal attorneys and
23 further send that out to you.

1 DR. ALEXANDROVICH: Thank you.

2 MS. WALSH: Uh-huh.

3 CHAIRMAN GARD: Any other questions?

4 (No response.)

5 CHAIRMAN GARD: Okay. We will move
6 on. The hearing is concluded.

7 The Board will now consider adoption of
8 amendments to 326 IAC 1-4, State SO2 and Porter
9 County Ozone Designations.

10 Is there any more Board discussion?

11 (No response.)

12 CHAIRMAN GARD: I need a motion to
13 adopt the rules as presented.

14 MS. ALEXANDROVICH: I will move --

15 MR. ETZLER: So moved, Bill Etzler.

16 DR. ALEXANDROVICH: Seconded,
17 Alexandrovich.

18 CHAIRMAN GARD: Okay. Thank you.
19 This is a roll-call vote.

20 Mr. Chambers?

21 (No response.)

22 CHAIRMAN GARD: Mr. Chambers?

23 (No response.)

1 CHAIRMAN GARD: Dr. Niemiec?
2 DR. NIEMIEC: Aye.
3 CHAIRMAN GARD: Dr. Alexandrovich?
4 DR. ALEXANDROVICH: Yes.
5 CHAIRMAN GARD: Ms. Huff?
6 MS. HUFF: Yes.
7 CHAIRMAN GARD: Mr. Schuler?
8 (No response.)
9 CHAIRMAN GARD: Mr. Schuler?
10 (No response.)
11 CHAIRMAN GARD: Mr. Rulon?
12 MR. RULON: Yes.
13 CHAIRMAN GARD: Mr. Horn?
14 MR. HORN: Yes.
15 CHAIRMAN GARD: Mr. Bortner?
16 MR. BORTNER: Yes.
17 CHAIRMAN GARD: Mr. Wasky?
18 MR. WASKY: Yes.
19 CHAIRMAN GARD: Mr. Davidson?
20 MR. DAVIDSON: Yes.
21 CHAIRMAN GARD: Mr. Etzler?
22 MR. ETZLER: Yes.
23 CHAIRMAN GARD: Ms. Koroski [sic]?

1 MS. KOZYRSKI: Yes.

2 CHAIRMAN GARD: And the Chair votes
3 aye. The motion is passed, 11 to 0.

4 This is a public hearing before the
5 Environmental Rules Board of the State of Indiana
6 concerning final adoption of amendments to rules
7 at 327 IAC 20, Satellite Manure Storage
8 Structures.

9 I will now introduce Exhibit B, the
10 preliminarily adopted rule with IDEM's suggested
11 changes, into the record of the hearing.

12 Krystal Hackney will present the rule.

13 MS. HACKNEY: Good afternoon, members
14 of the Board. My name is Krystal Hackney, and I
15 am a rule writer in the Rules Development Section
16 within the Office of Legal Counsel.

17 This rule was preliminarily adopted by the
18 Board on May 12th, 2021 and final adopted on
19 November 10th, 2021. However, it was recalled
20 during the promulgation process due to an
21 administrative error in the rulemaking process
22 because the fiscal impact analysis documents were
23 not sent to the Legislative Council at the same

1 time that they were sent to OMB. Once the rule
2 was recalled, we resent the fiscal impact
3 analysis documents to OMB, copying the
4 Legislative Council, and have already received an
5 updated approval letter.

6 This rulemaking updates certain referenced
7 throughout the Satellite Manure Storage Structure
8 Rule at 327 IAC 20 for the United States
9 Department of Agriculture Natural Resources
10 Conservation Services Conservation Practice
11 Standards for consistency with the requirements
12 found in the Confined Feeding Operations Rule
13 at 327 IAC 19.

14 The alignment of these two rules will
15 eliminate confusion for interested parties and
16 provide consistency in the design and
17 construction of future manure storage structures.
18 Aligning the SMSS rule with the CFO rule by
19 updating these references will ensure that future
20 regulated sources are held to the same standards
21 for the same activities across state rules.

22 The only change to the rule language after
23 it was final adopted in November 2021 is a

1 correction to the reference date in the updated
2 NRCS Conservation Practice Standard Code 634
3 at 327 IAC 20-5-5(d). Other than that one
4 change, the rule language has not changed since
5 it was first final adopted.

6 IDEM requests that the Board final adopt
7 this rule as presented. I am available to answer
8 any further questions that you may have.

9 Thank you.

10 CHAIRMAN GARD: Okay. Are there any
11 speaker cards on this?

12 MS. KINDRICK: No, ma'am.

13 CHAIRMAN GARD: Does anyone -- does
14 anyone have a question?

15 (No response.)

16 CHAIRMAN GARD: Okay. The hearing is
17 concluded.

18 The Board will now consider final adoption
19 of amendments to rules at 327 IAC 20, Satellite
20 Manure Storage Structures.

21 Any further Board discussion?

22 (No response.)

23 CHAIRMAN GARD: Is there a motion to

1 adopt IDEM's suggested changes?

2 MR. RULON: Rulon, so moved.

3 CHAIRMAN GARD: Is there a second?

4 MR. HORN: I'll second the motion,

5 Chris Horn.

6 CHAIRMAN GARD: Okay. This is a

7 roll-call vote.

8 Mr. Chambers?

9 (No response.)

10 CHAIRMAN GARD: Dr. Niemiec?

11 DR. NIEMIEC: Aye.

12 CHAIRMAN GARD: Dr. Alexandrovich?

13 DR. ALEXANDROVICH: Yes.

14 CHAIRMAN GARD: Ms. Huff?

15 MS. HUFF: Yes.

16 CHAIRMAN GARD: Mr. Schuler?

17 MR. SCHULER: Yes.

18 CHAIRMAN GARD: Mr. Rulon?

19 MR. RULON: Yes. Yes.

20 CHAIRMAN GARD: Mr. Horn?

21 MR. HORN: Yes.

22 CHAIRMAN GARD: Mr. Bortner?

23 MR. BORTNER: Yes.

1 CHAIRMAN GARD: Mr. Wasky?

2 MR. WASKY: Yes.

3 CHAIRMAN GARD: Mr. Davidson?

4 MR. DAVIDSON: Yes.

5 CHAIRMAN GARD: Mr. Etzler?

6 MR. ETZLER: Yes.

7 CHAIRMAN GARD: Ms. Koroski [sic]?

8 MS. KOZYRSKI: Yes.

9 CHAIRMAN GARD: And the Chair votes
10 aye. Actually there's 12 to 0. I have a
11 question before we move on.

12 Mr. Schuler, did you -- I heard you this
13 time, but I didn't hear you on the previous vote.
14 Did you vote on the previous vote?

15 (No response.)

16 CHAIRMAN GARD: Mr. Schuler?

17 MR. SCHULER: Can you hear me?

18 CHAIRMAN GARD: I can hear you now.

19 MR. SCHULER: I was yes on the -- I
20 was yes on the last vote as well.

21 CHAIRMAN GARD: Okay. Well, then if
22 you voted on the first vote and you voted aye,
23 that is a vote of 12 to 0.

1 MR. SCHULER: Yeah.

2 CHAIRMAN GARD: I'm sorry; I didn't
3 hear you.

4 Okay. Now we need a motion to final adopt
5 the rules as amended. Is there a motion?

6 MR. ETZLER: So moved, Bill Etzler.

7 CHAIRMAN GARD: Is there a second?

8 MR. HORN: I'll second it, Chris
9 Horn.

10 CHAIRMAN GARD: Okay. I'll call the
11 roll.

12 Dr. Niemiec?

13 DR. NIEMIEC: Aye.

14 CHAIRMAN GARD: Dr. Alexandrovich?

15 DR. ALEXANDROVICH: Yes.

16 CHAIRMAN GARD: Ms. Huff?

17 MS. HUFF: Yes.

18 CHAIRMAN GARD: Mr. Schuler?

19 MR. SCHULER: Yes.

20 CHAIRMAN GARD: Mr. Rulon?

21 MR. RULON: Yes.

22 CHAIRMAN GARD: Mr. Horn?

23 MR. HORN: Yes.

1 CHAIRMAN GARD: Mr. Bortner?

2 MR. BORTNER: Yes.

3 CHAIRMAN GARD: Mr. Wasky?

4 MR. WASKY: Yes.

5 CHAIRMAN GARD: Mr. Davidson?

6 MR. DAVIDSON: Yes.

7 CHAIRMAN GARD: Mr. Etzler?

8 MR. ETZLER: Aye.

9 CHAIRMAN GARD: Ms. Koroski [sic]?

10 MS. KOZYRSKI: Yes.

11 CHAIRMAN GARD: And the Chair votes
12 aye. Again, the rule is adopted 12 to 0.

13 Okay. This is a public hearing before the
14 Environmental Rules Board of the State of Indiana
15 concerning final adoption of amendments to rules
16 at 327 IAC 8-1-3, 327 IAC 8-2-1, 326 IAC 8-2.5-2,
17 327 IAC 8-3.4-1, 327 IAC 8-4.1-1 and
18 327 IAC 8-10-1 regarding Public Water System
19 Definition.

20 I'll now introduce Exhibit C, the rule as
21 preliminarily adopted with IDEM's suggested
22 changes, into the record of the hearing.

23 MaryAnn Stevens will present the rule.

1 MS. STEVENS: Good afternoon, members
2 of the --

3 CHAIRMAN GARD: MaryAnn?

4 MS. STEVENS: Hello? Good afternoon,
5 members of the Board. I am MaryAnn Stevens, a
6 rule writer in the Office of Legal Counsel, Rules
7 Development Branch.

8 This rulemaking is in response to the
9 U.S. EPA finding that the state's definition of
10 "public water system" is not consistent with the
11 federal definition. To correct this
12 inconsistency, the state's definition of a public
13 party system needs to add the words, quote, an
14 average of, end quote, before, quote, at least
15 twenty-five individuals, end quote, to all
16 definitions of "public water system" in Article 8
17 of Title 327 in order to be as stringent as the
18 federal definition.

19 Additionally, a definition of "public
20 water system" is being added to 327 IAC 8-3.4-1,
21 subdivision (24) to include it and the variations
22 that occur in rule language such as "public water
23 supply," "public water supply system," and the

1 acronyms for these terms, and connect them to the
2 definition of "public water system" at
3 327 IAC 8-2-1, subdivision (74).

4 Similarly, additions have been made to the
5 definitions of "community water system" and
6 "noncommunity water system" to include variations
7 of the terms used in rule language plus the
8 acronyms for those terms.

9 This rulemaking also is amending the rule
10 language at 327 IAC 8-2.5-2(b)(2) by adding the
11 term "GAC10" before "enhanced coagulation." This
12 is another U.S. EPA requested clarification to
13 make it clear that GAC10 treatment, which refers
14 to ten minutes of contact time in granular
15 activated carbon filter beds, applies to enhanced
16 coagulation as well as enhanced softening.

17 These wording additions will cause no
18 implementation change for drinking water systems
19 because for years IDEM has been determining
20 whether a drinking water system is or is not a
21 public water system according to the federal
22 definition and applying the requirement that
23 GAC10 treatment applies to both enhanced

1 coagulation and enhanced softening.

2 Since preliminary adoption, there has been
3 just one change to the proposed rule language,
4 which occurs in the definition of "pesticide
5 review board" at 327 IAC 8-4.1-8,
6 subdivision (18) to cite the Indiana Code
7 reference more specifically for the pesticide
8 review board.

9 IDEM's drinking water programs are
10 delegated to state from U.S. EPA, which gives the
11 federal agency authority to require IDEM to make
12 these rule language changes so that IDEM can
13 maintain primacy for the programs. Therefore,
14 IDEM believes the requirements of U.S. EPA have
15 been met in this rulemaking, and we ask for the
16 Board's vote for final adoption. If there are
17 any questions, I can provide answers as well as
18 the IDEM staff members from the Office of Water
19 Quality, who can provide more detailed answers.

20 CHAIRMAN GARD: Thank you.

21 Are there any speaker cards?

22 MS. KINDRICK: No, ma'am.

23 CHAIRMAN GARD: Does anyone on the

1 Board have a question?

2 (No response.)

3 CHAIRMAN GARD: Anyone watching
4 virtually have a question?

5 (No response.)

6 CHAIRMAN GARD: This hearing is
7 concluded.

8 The Board will now consider final adoption
9 of amendments to rules at 327 IAC 8-1-3,
10 327 IAC 8-2-1, 327 IAC 8-2.5-2, 327 IAC 8-3.4-1,
11 327 IAC 8-4.1-1, and 327 IAC 8-10-1 regarding
12 Public Water System Definition.

13 Any further discussion?

14 (No response.)

15 CHAIRMAN GARD: I need a motion to --
16 to adopt IDEM's suggested changes.

17 MR. DAVIDSON: So moved, Davidson.

18 CHAIRMAN GARD: Is there a second?

19 MR. RULON: Second, Rulon.

20 CHAIRMAN GARD: Okay. This is a call
21 of the roll.

22 Dr. Niemiec?

23 DR. NIEMIEC: Aye.

1 CHAIRMAN GARD: Dr. Alexandrovich?

2 DR. ALEXANDROVICH: Yes.

3 CHAIRMAN GARD: Ms. Huff?

4 MS. HUFF: Yes.

5 CHAIRMAN GARD: Mr. Schuler?

6 MR. SCHULER: Yes.

7 CHAIRMAN GARD: Mr. Rulon?

8 MR. RULON: Yes.

9 CHAIRMAN GARD: Mr. Horn?

10 MR. HORN: Yes.

11 CHAIRMAN GARD: Mr. Bortner?

12 MR. BORTNER: Yes.

13 CHAIRMAN GARD: Mr. Wasky?

14 MR. WASKY: Yes.

15 CHAIRMAN GARD: Mr. Davidson?

16 MR. DAVIDSON: Yes.

17 CHAIRMAN GARD: Mr. Etzler?

18 MR. ETZLER: Aye.

19 CHAIRMAN GARD: Ms. Korioski [sic]?

20 MS. KOZYRSKI: Yes.

21 CHAIRMAN GARD: And the Chair votes
22 aye. The motion is adopted 12 to 0.

23 I need a motion to final adopt the rule as

1 amended.

2 MR. DAVIDSON: So moved, Davidson.

3 CHAIRMAN GARD: Is there a second?

4 (No response.)

5 CHAIRMAN GARD: This is a roll-call
6 vote.

7 THE REPORTER: I didn't hear a
8 second.

9 CHAIRMAN GARD: Pardon me?

10 THE REPORTER: I didn't hear a
11 second.

12 CHAIRMAN GARD: Is there a second?
13 Who seconded?

14 MR. RULON: Bill did, but I will as
15 well, if you didn't hear Bill.

16 CHAIRMAN GARD: Okay.

17 Dr. Niemiec?

18 DR. NIEMIEC: Aye.

19 CHAIRMAN GARD: Dr. Alexandrovich?

20 DR. ALEXANDROVICH: Yes.

21 CHAIRMAN GARD: Ms. Huff?

22 MS. HUFF: Yes.

23 CHAIRMAN GARD: Mr. Schuler?

1 MR. SCHULER: Yes.

2 CHAIRMAN GARD: Mr. Rulon?

3 MR. RULON: Yes.

4 CHAIRMAN GARD: Mr. Horn?

5 MR. HORN: Yes.

6 CHAIRMAN GARD: Mr. Bortner?

7 MR. BORTNER: Yes.

8 CHAIRMAN GARD: Mr. Wasky?

9 MR. WASKY: Yes.

10 CHAIRMAN GARD: Mr. Davidson?

11 MR. DAVIDSON: Yes.

12 CHAIRMAN GARD: Mr. Davidson?

13 MR. DAVIDSON: Yes.

14 CHAIRMAN GARD: Okay.

15 Mr. Etzler?

16 MR. ETZLER: Aye.

17 CHAIRMAN GARD: Ms. Korioski [sic]?

18 MS. KOZYRSKI: Yes.

19 CHAIRMAN GARD: The Chair votes aye.

20 The motion is adopted 12 to 0.

21 This is a public hearing before the
22 Environmental Rules Board of the State of Indiana
23 concerning final adoption of amendments to rules

1 at 327 IAC 3-5-5, 327 IAC 5-3-2, 327 IAC 5-21-3,
2 327 IAC 8-3-7, 327 IAC 15-16-5, 327 IAC 15-16-10,
3 and 327 IAC 19-7-1, and the addition of
4 327 IAC 5-3-17, 327 IAC 5-21-12, and 327 IAC
5 19-9-2 regarding Water Program Permitting Fees.

6 I will now introduce Exhibit D, the rule
7 as preliminarily adopted with IDEM's suggested
8 changes, into the record of the hearing.

9 MaryAnn Stevens will present the rule.

10 MS. STEVENS: Good afternoon, members
11 of the Board. I am MaryAnn Stevens, a rule
12 writer in the Office of Legal Counsel, Rules
13 Development Branch.

14 This rulemaking to increase permitting
15 fees for IDEM's water program is conducted under
16 the authority of Public Law 250- 2019, which was
17 passed by the 2019 General Assembly to amend the
18 process in IC 13-16 concerning the adoption of
19 environmental fees by the Environmental Rules
20 Board.

21 In addition to the revisions to IC 13-16
22 that allow for future rulemakings to increase
23 environmental fees by not more than ten percent

1 in a five-year time period, Public Law 250-2019
2 requires the Environmental Rules Board to adopt
3 rules once before January 1st, 2022 -- excuse
4 me -- a date now extended to January 1st, 2023,
5 to increase the amount of the fees for
6 water-related programs under IC 13-18-10,
7 IC 13-18-20, and IC 13-18-20.5, regarding
8 confined feeding operations, NPDES permits, and
9 public water systems, respectively.

10 The increased water program fees along
11 with increased fees for solid waste and hazardous
12 waste programs under IC 13-20-21 and IC 13-22-12
13 are limited to an aggregate increase of 3.2
14 million dollars more than the aggregate fee
15 revenue actually received in the year immediately
16 preceding the proposed fee increases. The water
17 program fee increases will result in increased
18 revenue for IDEM's water programs of
19 approximately \$1,490,110. After the fees are
20 established in the rules, the corresponding fees
21 will be removed from statute.

22 Since preliminary adoption, there have
23 been a few minor rule language revisions at

1 327 IAC 5-3-17(a) (2) -- excuse me -- that were
2 suggested by the Indiana Register staff and
3 revisions at 327 IAC 19-7-1(a) (3) to cite two
4 Indiana Administrative Code references more
5 specifically.

6 For some time, the collected water program
7 fees have not been sufficient to cover IDEM's
8 costs of operating the water program. The fees
9 associated with issuing permits, amendments,
10 modification or renewals have not changed since
11 1996 for NPDES permits, 2003 for public water
12 system permits, and 1997 for confined feeding
13 operation permits.

14 The fees increased under this rulemaking
15 will help IDEM's water program; therefore, we ask
16 for the Board's vote for final adoption. If
17 there are any questions, I can provide answers as
18 well as other IDEM staff members who are here
19 today.

20 Thank you.

21 CHAIRMAN GARD: Are there any speaker
22 cards?

23 MS. KINDRICK: No, ma'am.

1 CHAIRMAN GARD: Are there any
2 questions from anyone else?

3 (No response.)

4 CHAIRMAN GARD: This hearing is
5 concluded. The Board will now consider final
6 adoption of amendments to rules at 327 IAC 3-5-5,
7 327 IAC 5-3-2, 327 IAC 5-21-3, 327 IAC 8-3-7,
8 327 IAC 15-16-5, 327 IAC 15-16-10, and
9 327 IAC 19-7-1, and the addition of
10 327 IAC 5-3-17, 327 IAC 15-21-12, and
11 327 IAC 19-9-2 regarding Water Program Permitting
12 Fees.

13 Is there any further Board discussion?

14 (No response.)

15 CHAIRMAN GARD: Let's see. You'll
16 have to bear with me. I think my papers are
17 mixed up.

18 MR. RULON: While you're finding
19 that, Beverly, I'll just throw in for Brian that
20 I hope he appreciates that we're helping him keep
21 the lights on.

22 (Laughter.)

23 CHAIRMAN GARD: Right.

1 Okay. What happened is my printer printed
2 this out and two pages stuck together, which I am
3 sorry. Well, I think at this point, I ask for a
4 motion to adopt the final adoption of the Water
5 Program Permitting Fees Rule.

6 MS. KING: Madam Chair?

7 CHAIRMAN GARD: Yes.

8 MS. KING: If I could assist, this is
9 Nancy King, with the Office of Legal Counsel.
10 Where we are within the program would be that you
11 would ask for a motion to adopt IDEM's suggested
12 changes, and if it would be beneficial, I can
13 read the roll for you.

14 CHAIRMAN GARD: Nancy, you echo.

15 MS. KING: Oh, great. Well, I'm not
16 very helpful, then. Right now we need a motion
17 to adopt IDEM's suggested changes. Are you able
18 to hear that?

19 CHAIRMAN GARD: Okay. Okay.

20 Is there a motion to adopt IDEM's accepted
21 changes to the rule?

22 MR. RULON: So moved.

23 CHAIRMAN GARD: Is there a second?

1 MR. ETZLER: Second, Bill Etzler.

2 CHAIRMAN GARD: Okay. I'll call the
3 roll.

4 Dr. Niemiec?

5 DR. NIEMIEC: Aye.

6 CHAIRMAN GARD: Dr. Alexandrovich?

7 DR. ALEXANDROVICH: Yes.

8 CHAIRMAN GARD: Ms. Huff?

9 MS. HUFF: Yes.

10 CHAIRMAN GARD: Mr. Schuler?

11 MR. SCHULER: Yes.

12 CHAIRMAN GARD: Mr. Rulon?

13 MR. RULON: Yes.

14 CHAIRMAN GARD: Mr. Horn?

15 MR. HORN: Yes.

16 CHAIRMAN GARD: Mr. Bortner?

17 MR. BORTNER: Yes.

18 CHAIRMAN GARD: Mr. Wasky?

19 MR. WASKY: Yes.

20 CHAIRMAN GARD: Mr. Davidson?

21 MR. DAVIDSON: Yes.

22 CHAIRMAN GARD: Mr. Etzler?

23 MR. ETZLER: Aye.

1 CHAIRMAN GARD: Ms. Korioski [sic]?

2 MS. KOZYRSKI: Yes.

3 CHAIRMAN GARD: And the Chair votes
4 aye. The motion is adopted 12 to 0.

5 Now I need a motion for final adoption of
6 the amended rule.

7 MR. DAVIDSON: So moved, Davidson.

8 CHAIRMAN GARD: Is there a second?

9 MR. ETZLER: Bill Etzler, second.

10 CHAIRMAN GARD: Okay. This is also a
11 roll-call vote.

12 Dr. Niemiec?

13 (No response.)

14 CHAIRMAN GARD: Dr. Alexandrovich?

15 DR. NIEMIEC: This is --

16 MS. ALEXANDROVICH: Yes.

17 DR. NIEMIEC: -- Niemiec, aye.

18 CHAIRMAN GARD: Ms. Huff?

19 MS. HUFF: Yes.

20 CHAIRMAN GARD: Mr. Schuler?

21 MR. SCHULER: Yes.

22 CHAIRMAN GARD: Mr. Rulon?

23 MR. RULON: Yes.

1 CHAIRMAN GARD: Mr. Horn?

2 MR. HORN: Yes.

3 CHAIRMAN GARD: Mr. Bortner?

4 MR. BORTNER: Yes.

5 CHAIRMAN GARD: Ms. Wasky?

6 MR. WASKY: Yes.

7 CHAIRMAN GARD: Mr. Wasky.

8 Mr. Davidson?

9 MR. DAVIDSON: Yes.

10 CHAIRMAN GARD: Mr. Etzler?

11 (No response.)

12 CHAIRMAN GARD: Mr. Etzler?

13 MR. ETZLER: Aye.

14 CHAIRMAN GARD: Ms. Korioski [sic]?

15 MS. KOZYRSKI: Yes.

16 CHAIRMAN GARD: And the Chair votes

17 aye. The motion is adopted 12 to 0 for final

18 adoption of the rule as amended.

19 Okay. Okay. This is a public hearing
20 before the Environmental Rules Board of the State
21 of Indiana concerning the final adoption -- is
22 that -- Nancy, is that the same one I've already
23 done?

1 MS. KING: No, ma'am, this is the
2 final adoption of the Waste Program Permitting
3 Fees.

4 CHAIRMAN GARD: Okay. I'm sorry,
5 everybody. My printer had a couple of pages
6 stuck together, and it didn't -- didn't print a
7 half page of a couple of pages.

8 This is a public hearing before the
9 Environmental Rules Board of the State of Indiana
10 concerning final adoption of amendments to rules
11 at 329 IAC 3-1-1-14.1, 329 IAC 10-14-1,
12 329 IAC 15-3-4, and 329 IAC 15-4-3, the addition
13 of 329 IAC 10-11-8 and 329 IAC 11-9-4.1, and
14 repeal of 329 IAC 15-3-7, regarding Waste Program
15 Permitting Fees.

16 I'll now introduce Exhibit E, the
17 preliminarily adopted rule, into the record for
18 the hearing.

19 Seth Engdahl will present the rule.

20 MR. ENGDAHL: Members of the Board,
21 good afternoon. My name is Seth Engdahl, and I
22 am a rule writer within IDEM's Office of Legal
23 counsel.

1 The rule currently under consideration for
2 final adoption would increase fees related to the
3 administration of IDEM's solid waste and
4 hazardous waste programs. This rulemaking is
5 statutorily required by Public Law 250-2019,
6 which was described a few moments ago for the
7 water fee increase rule.

8 This rulemaking only relates to the fees
9 associated with IDEM's solid waste and hazardous
10 waste programs. The fee increases included in
11 this rule are anticipated to provide
12 approximately \$1,715,595 in additional revenue
13 for the administration of these programs. These
14 fees have not been raised since 1996.

15 The proposed fee amounts contained in this
16 rule were determined based on an analysis of
17 current fee revenue and permitting-related costs
18 incurred by IDEM. Therefore, this rule is not
19 only necessary for fulfilling the statutory
20 requirement put forth by the General Assembly in
21 Public Law 250-2019, but also essential to
22 maintain IDEM's fiscal integrity and its ability
23 to conduct the permit issuance work that it is

1 tasked to do.

2 IDEM requests that the Board approve this
3 rule as presented, and I and other IDEM staff are
4 available to answer any questions that you may
5 have.

6 CHAIRMAN GARD: Are there any
7 questions for Seth?

8 (No response.)

9 CHAIRMAN GARD: Any speaker cards?

10 MS. KINDRICK: No, ma'am.

11 CHAIRMAN GARD: This hearing is
12 concluded.

13 The Board will now consider final adoption
14 of amendments to rules at 329 IAC 3.1-1-14.1,
15 329 IAC 10-14-1, 329 IAC 15-3-4, and
16 329 IAC 15-4-3, addition of 329 IAC 10-11-1 and
17 329 IAC 11-9-4.1, and repeal of 329 IAC 15-3-7,
18 regarding Waste Program Permitting Fees.

19 Is there Board discussion?

20 MR. DAVIDSON: Chair Gard, this is
21 Calvin Davidson. Just a couple of brief
22 comments. I had -- after the first action on
23 this last fall, I was kind of surprised that we

1 didn't get much input, and had reached out to
2 some fellow stakeholders in the regulated
3 community.

4 I want to just encourage, I guess, on
5 other matters, too, because education seems to be
6 an area that could improve, because there are
7 people that want to have input that don't
8 understand quite how this Board works, to your
9 point earlier regarding 1100, House Bill 1100.

10 A better education of what we do and how
11 we do it allows us to do a better job, allows us
12 to make the things work the way you want them to
13 work, so if you don't come to us, you don't make
14 suggestions, you don't have input, we're doing
15 the best we can with the knowledge we're
16 presented.

17 And at the same time, I'd ask a question
18 of the agency: Does this open a door for us to
19 take on other -- if someone comes back next fall
20 or this summer with an innovative rate fee
21 structure idea that allows everybody to get
22 along, is there -- is this a door into the
23 future, or are we restricted to what we pass

1 today?

2 CHAIRMAN GARD: Nancy, that's
3 probably a question for you.

4 MS. KING: Well, and here I am right
5 here ready to answer it.

6 Thank you, Cal, for the question. I
7 believe that -- as you know, this is the first
8 time that we have been able to do our fees by
9 rule since many years ago, when I first started,
10 30 years ago, where our fees were removed by --
11 because of a lawsuit, and it was the water and
12 waste fees that were.

13 At that time, in order to fund the agency,
14 there was a task force put together by the
15 legislature, and they came up with a fee
16 structure that was put in statute. That was
17 supposed to be a temporary fee structure.
18 However, it remained in statute until the bill
19 was passed in 2019 that gave us -- they never
20 eliminated the ability for the Board to do fees
21 by rule, which was the original intent when this
22 agency was created.

23 So, we used that avenue to move forward

1 with this process. At that point in time, the
2 agency had had an audit done that was a
3 cost-of-service audit, explained what it cost to
4 run these various programs. That was the basis
5 for these fee increases, but as it was -- also
6 needed a legislative approval to do that, there
7 were some restrictions put in that, as MaryAnn
8 alluded to, that we have to -- we're not allowed
9 to do it more than once every five years, and it
10 can't be more than ten percent.

11 But beyond that, because this is a
12 rulemaking structure, I think we do have the
13 ability to look at different and more innovative
14 ways to possibly charge fees, perhaps for people
15 to be able to pay them maybe in several
16 installments.

17 Now, the problem that we have related to
18 that, and it's certainly something to talk
19 through as people come up with these ideas, is
20 that we have to maintain a budget, it has to be
21 approved by the Office of Management and Budget,
22 and all of that good stuff.

23 But that said, I don't -- I think that we

1 have much more leeway in terms of the ability to
2 think of ways to make this work for people, and
3 certainly to educate people on what this looks
4 like, this being the first time we've talked
5 about it in now -- it started out as 25 years,
6 but with our rulemaking process, we're now 27
7 years. But I do think that we have that ability.

8 And if -- as people bring us these kinds
9 of ideas, if it would appear that there might --
10 we might need some kind of specific statutory
11 amendment to allow us to do that, I think that's
12 certainly something that we would entertain and
13 work with the legislature to make sure that
14 happens, because obviously it's the people whose
15 permit fees are allowing us to be funded to do
16 the jobs that we're required to do, they have the
17 interest and they should be involved in this
18 process.

19 So, I appreciate the thought, and I
20 believe that we, in the future, would have that
21 ability, and I hope that we're able to have those
22 conversations.

23 MR. DAVIDSON: Thank you, Nancy.

1 some constraints under the Clean Air Act, and as
2 Brian mentioned, we are looking at ways to -- to
3 address the fee issues as they relate to air.
4 But all of these are now going to be rulemaking
5 processes, so it does allow us a little more, I
6 would say, latitude, possibly, in looking at
7 different ways to do it than if we are within a
8 legislative structure.

9 CHAIRMAN GARD: Well, it seems to me
10 that it has always worked better and you get a
11 better result if the fees are adopted by rule.
12 You know, inherently legislators -- and I'm sure
13 I was guilty of this as well -- don't want to
14 raise fees on anybody, and I think the rulemaking
15 process allows a more neutral area for -- to deal
16 with it, and getting a cost-of-service analysis
17 is really important, I think. So, we'll see
18 eventually how this comes out in the legislature,
19 too, and it -- it could change a lot.

20 So, with that, any more questions?

21 (No response.)

22 CHAIRMAN GARD: Well, the hearing is
23 concluded.

1 The Board will now consider final adoption
2 of amendments to rules at 329 IAC 3.1-1-14.1,
3 329 IAC 10-14-1, 329 IAC 15-3-4, 329 IAC 15-4-3,
4 329 IAC 10-11-8, and 329 IAC 11-9-4.1, and repeal
5 of 329 IAC 15-3-7, regarding Waste Program
6 Permitting Fees.

7 Any further Board discussion?

8 (No response.)

9 CHAIRMAN GARD: I need a motion to
10 final adopt the rule as presented.

11 MR. DAVIDSON: So moved, Davidson.

12 CHAIRMAN GARD: Is there a second?

13 (No response.)

14 CHAIRMAN GARD: Okay. This is a call
15 of the roll.

16 THE REPORTER: I didn't hear a
17 second.

18 CHAIRMAN GARD: Who was that that
19 seconded?

20 MR. ETZLER: Bill Etzler would second
21 it.

22 CHAIRMAN GARD: Okay. Bill Etzler.
23 Dr. Niemiec?

1 DR. NIEMIEC: Aye.

2 CHAIRMAN GARD: Dr. Alexandrovich?

3 DR. ALEXANDROVICH: Yes.

4 CHAIRMAN GARD: Ms. Huff?

5 MS. HUFF: Yes.

6 CHAIRMAN GARD: Mr. Schuler?

7 MR. SCHULER: Yes.

8 CHAIRMAN GARD: Mr. Rulon?

9 MR. RULON: Yes.

10 CHAIRMAN GARD: Mr. Horn?

11 MR. HORN: Yes.

12 CHAIRMAN GARD: Mr. Bortner?

13 MR. BORTNER: Yes.

14 CHAIRMAN GARD: Mr. Wasky?

15 MR. WASKY: Yes.

16 CHAIRMAN GARD: Mr. Davidson?

17 Mr. Etzler?

18 MR. DAVIDSON: Yes.

19 CHAIRMAN GARD: Mr. Etzler?

20 MR. ETZLER: Mr. Etzler, aye.

21 CHAIRMAN GARD: Ms. Korioski [sic]?

22 MS. KOZYRSKI: Yes.

23 CHAIRMAN GARD: The Chair votes aye.

1 The rule is adopted 12 to 0.

2 Okay. We now have a presentation on the
3 Nonrule Policy Document by Mark Derf of IDEM's
4 Office of Air Quality regarding Guidance to
5 Predicting a High Ozone Level Day for Sources
6 Subject to 326 IAC 8-13.

7 MR. DERF: Good afternoon, everyone.
8 My name is Mark Derf. I'm the Section Chief with
9 the Technical Support and Modeling Section of the
10 Office of Air Quality.

11 One of my Section's responsibilities is to
12 issue daily air quality forecasts throughout the
13 state. When there are -- when weather conditions
14 warrant, typically in the late spring and summer,
15 Office of Air Quality's air quality forecasters
16 may issue an Air Quality Action Day for any of
17 the seven air quality forecast regions throughout
18 the state.

19 This is done when ozone is anticipated to
20 exceed the National Ambient Air Quality Standards
21 of 70 parts per billion over an eight-hour
22 average period. Ozone concentrations exceeding
23 the standard equate to an Air Quality Index, or

1 AQI, range of unhealthy for sensitive groups, or
2 even worse air quality would be unhealthy, very
3 unhealthy, or hazardous levels of concern.

4 Nonrule Policy Air-0020-R1-NPD applies to
5 sinter plants at integrated steel mills in Lake
6 and Porter Counties in Northwest Indiana. There
7 are currently three sinter plants in Lake and
8 Porter Counties. Sinter plants convert
9 iron-bearing raw materials from a fine
10 particulate size to a coarse agglomerate using
11 heat. The heating process drives off volatile
12 organic compounds, or VOC's, from the material.

13 VOC's and nitrates -- nitrogen, or NO_x,
14 emissions are key components to the formation of
15 ozone. Sources must comply with limiting their
16 VOC emissions to reduce their emissions on days
17 when Air Quality Action Days are issued. The
18 rule citation for affected sources is 326 Indiana
19 Administrative Code 8-13-4(b)(8).

20 The NPD provides guidance for a source to
21 develop its own high ozone action day prediction
22 procedure if the source does not wish to rely on
23 IDEM's air quality forecast of an Air Quality

1 Action Day. This Policy Document spells out the
2 steps a source must take to develop its own air
3 quality forecast.

4 Details of those steps are contained
5 within the document, and this also includes the
6 primary meteorological conditions generally
7 present on high ozone days in Northwest Indiana
8 and the proper notification of IDEM for use of
9 the source's alternative high ozone prediction
10 method. To date, IDEM has never been notified of
11 any sources that use this alternative high ozone
12 forecasting, and no sources have challenged any
13 Air Quality Action Day forecasts issued in the
14 area since the rule was adopted in 1998.

15 Historically, the number of Air Quality
16 Action Days issued for Lake, Porter and LaPorte
17 Counties in the Northwest Indiana region total
18 less than ten days a year, with the exception of
19 the summer of 2012, which was extremely warm,
20 when we had over two dozen Air Quality Action
21 Days issued.

22 Local and regional VOC and NOx emission
23 reductions over the past two decades have helped

1 to reduce ozone in the Northwest Indiana region
2 and throughout the state, thus limiting the need
3 for issuing Air Quality Action Days. This is
4 true despite the fact that the ozone National
5 Ambient Air Quality Standard has been lowered
6 several times over the past couple of decades.

7 OAQ recommends sources rely on IDEM's air
8 quality forecasts. These forecasts are updated
9 daily and are available on IDEM's SmogWatch Web
10 page as well as through e-mail notification that
11 individuals or sources can sign up through the
12 SmogWatch Web site.

13 In the event that a source would prefer to
14 use their own air quality forecast, OAQ's air
15 quality forecasters would work with that source,
16 within the parameters set within this NPD, to
17 ensure all precautions were taken to forecast
18 high ozone as accurately as possible and protect
19 air quality for Indiana citizens.

20 I'd be happy to answer any questions.

21 CHAIRMAN GARD: Are there any
22 questions?

23 (No response.)

1 CHAIRMAN GARD: Well, thank you.

2 MR. DERF: Thank you.

3 CHAIRMAN GARD: We'll now have a
4 presentation by Paul McMurray at the Office of
5 Water Quality on the 2022 List of Impaired Waters
6 and consolidated assessment and listing
7 methodology under Section 303(d) of the Clean
8 Water Act.

9 Paul?

10 MR. MCMURRAY: Good afternoon,
11 members of the Board. My name is Paul McMurray,
12 and I am the Integrated Report Coordinator for
13 IDEM, out of the Office of Water Quality and the
14 Watershed Assessment and Planning Branch.

15 Next slide.

16 MS. BUMP: Can everybody see that
17 now?

18 CHAIRMAN GARD: Okay.

19 MR. MCMURRAY: Okay. Yes, next
20 slide, please.

21 CHAIRMAN GARD: Yeah. It's up.

22 MR. MCMURRAY: Okay.

23 So, Section 305(b) of the Clean Water Act

1 requires states to produce their report during
2 even-numbered years on the current condition of
3 state water quality resources. Section 303(d) of
4 the Clean Water Act is a list of those waters
5 that have been sampled and we find to be not
6 supporting designated uses and these waters are
7 being considered impaired.

8 So, for the 305(b) report and the 303(d)
9 list, IDEM is looking at all of our water quality
10 data that we have, and also looking at outside
11 sources as well. So, the finalized 305(b) report
12 and 303(d) list are due to EPA on April 1st of
13 2022, but prior to that, we have a public comment
14 period, and it's a 45-day comment period that
15 started on January 14th and will go through
16 February 28th.

17 And during this time, the draft 303(d)
18 list and a notice of comment document, which is
19 kind of a summary of the full report and the --
20 excuse me -- and the consolidated assessment and
21 listing methodology document, which is just a
22 document that contains a summary of the methods
23 used to assess streams, those are all bound to

1 the IDEM Web site for the public to view and to
2 submit any comments on.

3 At the same time, these documents are sent
4 to EPA, so during this review period EPA's also
5 looking at the list, and once the review period
6 is over, they will send us any questions that
7 they may have on it.

8 Next slide, please.

9 So, the 303(d) list is actually just one
10 part of Indiana's consolidated list, which is
11 basically a summary of everything IDEM knows
12 about water quality in Indiana surface waters.
13 So -- excuse me -- on this list we place every
14 water body into one of five main categories for
15 each of these designated uses, and the designated
16 uses that we assess for are: Aquatic life use
17 support, recreational use support, drinking water
18 use support, and fish consumption. So, each
19 water body can be assessed for, you know, each of
20 those four different uses.

21 So, category 1 are -- is basically a water
22 body is -- that has been assessed for all four
23 uses and all four uses are fully supporting.

1 Category 2, the use has been assessed on
2 the water body that is -- that use is fully
3 supporting, and no other uses are impaired.

4 Category 3 is for uses where we don't have
5 enough data or information to determine if that
6 use is supported. Maybe we've, you know, never
7 sampled that stream or lake for fish tissue or
8 for whatever the use is.

9 Categories 5 and 4 actually have a little
10 bit -- I'll get into a little bit more detail
11 with those. So, Category 5 is the -- is for
12 stream segments that have an impaired designated
13 use. So, you know, these segments, we've sampled
14 them, we've found that, say, biological community
15 of fish, aquatic insects is not meeting our
16 standards, and so, it's impaired for that use.

17 You know, a stream segment can be
18 considered Category 5 for one use, but then, say,
19 Category 2 for a different use, if it's passing,
20 you know, as -- for fish consumption or
21 something. So, basically Category 5 is the
22 303(d) list for Indiana. It's just, you know,
23 the list of all of the impaired water bodies.

1 Category 4 is for water bodies that are
2 impaired, but have either had a TMDL written for
3 them -- TMDL is a total maximum daily load
4 document -- so, that's either been written for
5 that water body and submitted to EPA, or the
6 impairments are something that you really can't
7 address with a TMDL.

8 So, if it's -- if we determine that the
9 fish community is probably being impaired because
10 of poor habitat, it's not something that you can
11 really fix, like -- you know, like a beaver dam
12 or something like that, then it might be
13 considered a Category 4.

14 So, next slide, please.

15 So, for the past three cycles, beginning
16 in 2019, the Indiana 305(b) report and 303(d)
17 list have been uploaded to EPA Assessment, TMDL
18 Tracking, and Implementation System, also known
19 as ATTAINS.

20 So, ATTAINS is an on-line database that we
21 submit all of the data to, and it's organized and
22 it's available to the public for them to -- you
23 know, to review if they would like to, you know,

1 if they're curious about the water quality in a
2 stream segment. So, this year we have uploaded
3 the draft components of the integrated report and
4 the 303(d) list to ATTAINS, and they are
5 currently reviewing it right now.

6 The data in ATTAINS is also used in
7 products such as EPA's "How's My waterway" site,
8 which will allow citizens to search, you know,
9 any site in the U.S. They can just, you know,
10 put in their address or city or river, and it
11 will show a map with different stream segments
12 that are impaired or not impaired. If you click
13 on that, you can see what the impairment is and
14 if a TMDL has been created for that impairment.
15 So, that's, you know, just one way that IDEM's
16 water quality data is being used.

17 The next slide, please.

18 So, let's take a look at the current
19 status of Indiana waters on the draft 303(d)
20 list. Currently there 4,303 individual water
21 bodies that is either stream reaches or lakes
22 that are impaired for one of the designated uses,
23 at least one. Altogether there are 6,522

1 impairments, so there's quite a few water bodies
2 that have more than one impairment. If you break
3 it down between streams and lakes, there are
4 almost 4200 stream reaches that are impaired, out
5 of about 15,000 in the state, and that's
6 equivalent to about -- almost 21,000 miles of
7 stream miles in Indiana, about one-third of all
8 of the miles in the state.

9 With lakes, there are 136 lakes that are
10 impaired for a designated use, out of 1,555, and
11 that's equivalent to about 43 percent of all of
12 the lake acres in the state. The total for lakes
13 is not including Lake Michigan, but the stream
14 total is including the lake shore of Lake
15 Michigan.

16 Next side, please.

17 So, the top causes of stream impairment,
18 the primary -- greatest cause of impairment is
19 E. Coli in the water, which affects almost 12,000
20 stream miles in Indiana, and this is followed by
21 volatile integrity, which is just poor fish or
22 aquatic insect communities. With regards to fish
23 tissue consumption, PCB's -- and PCB's account

1 for about ten times as many impairments as
2 mercury in fish tissue.

3 And these are different impairment causes.
4 There can be multiples of these for any given
5 stream set, and so, you can have a stream segment
6 that has, you know, impaired biological integrity
7 and impaired dissolved oxygen in the segment.

8 Next slide, please.

9 So, compared to the 2020 list, there's
10 really not any major changes, but we are going in
11 the right direction. There were 69 fewer
12 impairments and 92 fewer water bodies impaired
13 in 2022 compared to 2020, and 104 prior
14 impairments on 91 streams were found to actually
15 have water quality improvements.

16 And some of the remaining changes to the
17 list were the result of mainly just QC, looking
18 for errors in the data in the list, and
19 continuing to develop TMDL's, which will address
20 some of the Category 5 impairments.

21 Next slide, please.

22 One change that we are making in the
23 consolidated assessment and listing methodology

1 document is how we are looking at total dissolved
2 metals in our water samples. So, we've -- we're
3 looking at developing these conversion formulas
4 for certain metals: Arsenic, chromium, copper,
5 lead metal.

6 And the idea is that we have a
7 site-specific sample for total metals only and
8 not dissolved. We can use these conversion
9 formulas to get a good estimate of what the solid
10 metal concentration might be, and if it appears
11 that the dissolved metal concentration would
12 result in an impairment, then we can go back
13 again to that site and sample it for dissolved
14 metals this time to see if there actually is an
15 impairment. And hopefully this will result in
16 fewer overall additions to the 303(d) list.

17 Next slide, please.

18 So, the key takeaways is that there's
19 really not major changes in the number or types
20 of impairments that IDEM's seeing. Things seem
21 to be getting a little better, gradually.
22 Currently we have 3,030 TMDL's approved for
23 impaired waters in the state, and we are

1 monitoring about 250, 300 sites per year, which
2 provides us with additional information on water
3 quality in Indiana.

4 Next.

5 And if you would like to find more
6 information about the 305(b) report and 303(d)
7 lists, you can use this link, or just Google, you
8 know, IDEM 305(b) report, and it'll take you to
9 the Web site where the draft 303(d) list and the
10 notice of comments documents are located.

11 Thank you, and -- thank you.

12 CHAIRMAN GARD: Okay. Are you going
13 to leave that up, or are you going to take it
14 down? There we go. Thank you. That was
15 interesting. I assume those slides will be on
16 the recorded -- recording of this meeting;
17 correct?

18 MS. BUMP: Yes, they will be.

19 CHAIRMAN GARD: Okay. Good.

20 Any questions for Paul?

21 (No response.)

22 CHAIRMAN GARD: I do have one
23 question. How long does it take for you to

1 get -- you all to get around to all of the water
2 bodies that have to be assessed?

3 MR. MCMURRAY: Currently we have -- I
4 think it depends on the project that we're doing.
5 With our probabilistic monitoring strategy, we
6 have a -- we have the state divided up into nine
7 large basins, and we sample one of these basins
8 every year. So, with that project it takes about
9 nine years to cover the entire state.

10 Within each basin, we're looking at 38 --
11 between 38 and 40 sites, and these sites are
12 randomly sampled, so they give us a statistical
13 estimation of the water quality for the entire
14 basin, based on what sampling is done.

15 But then we have other projects that are
16 more targeted in nature, where we're going to,
17 say, a watershed that has been previously sampled
18 before, and we can kind of target sites at, say,
19 bridge crossings, and that gives us -- it's a
20 much smaller scale project, but it gives us maybe
21 a bit more detail about, you know, certain
22 stressors that are affecting the entire
23 watershed.

1 CHAIRMAN GARD: Okay.

2 Any other questions?

3 (No response.)

4 CHAIRMAN GARD: Thank you.

5 Now we're going to have an update on the
6 citizen's petition. Paul Higginbotham for IDEM
7 and Craig Williams for the petitioners, and then
8 I think Bill Etzler has comments as well.

9 So, Paul, you can go ahead and go first.

10 MR. HIGGINBOTHAM: Thank you,
11 Chairwoman Gard, and good afternoon, members of
12 the Board. My name is Paul Higginbotham. I'm
13 the Deputy Assistant Commissioner for the Office
14 of Water Quality at IDEM, and I would just like
15 to take this opportunity to give you an update,
16 as you mentioned, with the -- working with the
17 petitioners as it relates to the 2012 criteria.
18 It's kind of evolved somewhat from that as well.

19 And we had our last meeting with
20 petitioners groups on January 11th, at which
21 time, in my opinion, we had a very good
22 conversation with them about the approach of
23 working with one of their communities to develop

1 kind of a focused use attainability analysis
2 approach that would then allow them to pursue the
3 wet weather limited use subcategory rulemaking,
4 which would be in line with our current statutes,
5 as well as aligned with like getting approved for
6 CWA authority slash citizens slash Indianapolis,
7 and that the Board has recently approved for the
8 City of Fort Wayne.

9 So, we're hoping to continue down that
10 path of working with them towards what that means
11 by utilizing existing information and data that's
12 out there to try to say -- well, I think the
13 concerns from the petitioners is the cost,
14 especially so much for some of the smaller
15 communities, mid-sized communities, the cost of
16 going out and getting additional information and
17 doing those activities.

18 So, we're taking this approach now, that
19 the group -- the petitioners group is taking --
20 has taken the next -- oh, it's been four to six
21 weeks to gather up some data and some information
22 that already exists, and then after that, they're
23 going to come back and we're going to schedule

1 another meeting to then kind of talk through that
2 process on how to utilize that data to meet the
3 requirements for a use attainability analysis,
4 which could then lead to a wet weather limited
5 use subcategory rulemaking, which would then lead
6 to a level of regulatory certainty for what
7 they're looking for as well.

8 So, that's our update from IDEM at this
9 point, so I don't know if anybody has any
10 questions.

11 CHAIRMAN GARD: Anyone have
12 questions?

13 (No response.)

14 CHAIRMAN GARD: Okay. Craig Williams
15 for the petitioners.

16 MR. WILLIAMS: Good afternoon, Board.
17 Thank you for the opportunity to just provide a
18 little bit of update.

19 Really, I don't have anything additional
20 to add to what Paul shared. We are continuing
21 to, I think, work well with our work group. I'm
22 looking forward to running a test community
23 through the proposed focused UAA to see if this

1 is something that will work for Indiana
2 communities.

3 I do want to acknowledge in the audience,
4 I know it can be probably hard to see remotely,
5 Mayor David Wood of Mishawaka and Mayor Richard
6 Hickman of Angola are in attendance today. I
7 just wanted to make their presence known so the
8 Board can see that they're continuing with their
9 interest in this process.

10 So, thank you.

11 CHAIRMAN GARD: So, you really feel
12 that this has been beneficial and you all have a
13 better understanding of the statute, the meaning
14 of it, and you really think it's been beneficial?

15 MR. WILLIAMS: We have been very
16 encouraged with the progress that both sides have
17 been able to make. We -- the petitioners still
18 feel that -- very strongly about the path that we
19 laid out and provided for the agency, but we do
20 see a good possibility of this focused UAA to be
21 a working solution, and are actively trying to
22 help make that successful.

23 CHAIRMAN GARD: Well -- and thanks

1 for putting the time in on this.

2 Bill, Bill Etzler, would you like to give
3 your perspective?

4 Bill's been involved with this since the
5 beginning.

6 MR. ETZLER: Thank you, Chairman
7 Gard.

8 The one thing that I've been encouraged by
9 is, I think the petitioners and the agency were a
10 long way apart when we started this process, and
11 I think through a lot of healthy dialogue and
12 exchange of ideas and a lot of hard work on the
13 part of both parties, I think we've found a
14 potential solution to finding a way for small
15 communities to save a significant amount of
16 money, and to also reach a point where they can
17 be less concerned about what might happen during
18 a wet weather discharge to those communities and
19 what effect that might have on their discharge
20 permits and potential fines and all of those
21 sorts of things.

22 I know that when we started down this
23 path, I think there was little recognition on

1 either side of the position that the other party
2 had, and I see us now in a place where we -- both
3 parties understand that, through a little give
4 and take and a lot of hard work, that we can
5 achieve the goals of both parties and come to a
6 solution. It's still going to take a little bit
7 of time and effort, but I think we've found the
8 way to make this work, and I look forward to
9 working with them as we continue down this path.

10 CHAIRMAN GARD: Well, thank you,
11 Bill, and thank you for your participation and
12 the time you've spent on this.

13 Does anyone have a question for Bill or
14 either of the two previous presenters?

15 DR. ALEXANDROVICH: Yes, Chair Gard.
16 This is Joanne. I do have a question.

17 CHAIRMAN GARD: Uh-huh.

18 DR. ALEXANDROVICH: And I guess Bill
19 can answer it, or anyone can answer it. If this
20 latest compromise or workaround or however you
21 want to characterize it -- I'm sorry for lack of
22 better terminology -- do you foresee that it
23 might require a rules -- rulemaking?

1 MR. ETZLER: I'll answer it from my
2 perspective. Probably no rulemaking, because
3 with the path that we're looking at now, the
4 rules are already in place, either through
5 statute or through rules that the Board has
6 adopted, and I think it's just a matter of taking
7 all of the information and just simplifying the
8 process to achieve what we need to achieve.

9 CHAIRMAN GARD: Okay.

10 Any other questions?

11 (No response.)

12 CHAIRMAN GARD: Okay. Thank you.

13 Thank you, Bill.

14 I guess now we're down to the area of Open
15 Forum. Does anyone wish to address the Board
16 today, any of you on virtually or in person?

17 (No response.)

18 CHAIRMAN GARD: Okay. As you've
19 heard earlier, there isn't a specific date for
20 the next Board meeting, but as soon as there is
21 one, we will let you know. It very likely won't
22 be at the time that we normally have it. It will
23 probably be later in the summer.

1 With that, is there a motion to adjourn?

2 DR. NIEMIEC: So moved. This is
3 Niemic.

4 CHAIRMAN GARD: Okay.

5 Is there a second?

6 MR. RULON: Second, Rulon.

7 CHAIRMAN GARD: All in favor, say
8 aye.

9 (Board members responded, "Aye.")

10 CHAIRMAN GARD: Opposed, nay.

11 (No response.)

12 CHAIRMAN GARD: Hearing none, we are
13 adjourned, and thank all of you for your
14 participation. This was, I think, one of the
15 best turnouts that we've had for a very long
16 time. So, thank you all.

17 - - -
18 Thereupon, the proceedings of
19 February 9, 2022 were concluded
20 at 3:12 o'clock p.m.
21 - - -

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CERTIFICATE

I, Lindy L. Meyer, Jr., the undersigned Court Reporter and Notary Public residing in the City of Shelbyville, Shelby County, Indiana, do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me on Wednesday, February 9, 2022 in this matter and transcribed by me.

Lindy L. Meyer, Jr.,
Notary Public in and
for the State of Indiana.

My Commission expires August 26, 2024.

Commission No. NP0690003

	actually (9) 12:20;14:5;16:14; 34:10;45:15;69:9; 70:9;74:14;75:14	17:21;73:19 afternoon (12) 10:3;21:21;25:6; 30:13;37:1,4;44:10; 52:21;63:7;67:10; 78:11;80:16	alluded (1) 57:8 almost (4) 10:7;73:4,6,19 along (2) 45:10;55:22 alternative (2) 65:9,11 Altogether (1) 72:23 always (1) 60:10 Ambient (2) 63:20;66:5 amend (1) 44:17 amended (5) 26:7;35:5;42:1; 50:6;51:18 amending (1) 38:9 amendment (1) 58:11 amendments (12) 24:21;28:8;30:6; 32:19;36:15;40:9; 43:23;46:9;47:6; 52:10;54:14;61:2 American (1) 59:9 amount (3) 14:21;45:5;82:15 amounts (1) 53:15 analysis (6) 30:22;31:3;53:16; 60:16;79:1;80:3 Angelique (1) 6:21 Angola (1) 81:6 anticipated (2) 53:11;63:19 apart (1) 82:10 apologize (1) 3:4 appear (1) 58:9 appears (1) 75:10 applies (3) 38:15;23;64:4 apply (1) 12:19 applying (1) 38:22 appointed (1) 16:22 appreciate (1) 58:19 appreciates (1) 47:20	approach (3) 78:22;79:2,18 appropriate (1) 8:10 approval (3) 11:22;31:5;57:6 approve (3) 9:5,11;54:2 approved (5) 9:23;57:21;75:22; 79:5,7 approximately (2) 45:19;53:12 April (1) 68:12 AQI (1) 64:1 Aquatic (3) 69:16;70:15;73:22 area (7) 13:10,12,23;55:6; 60:15;65:14;84:14 areas (1) 13:9 argued (1) 19:6 argument (1) 19:13 around (3) 11:5;15:15;77:1 Arsenic (1) 75:4 Article (1) 37:16 Assembly (2) 44:17;53:20 assess (2) 68:23;69:16 assessed (4) 69:19,22;70:1;77:2 assessment (8) 13:21;14:2;23:13; 67:6,14;68:20;71:17; 74:23 assist (1) 48:8 Assistant (1) 78:13 associated (2) 46:9;53:9 assume (1) 76:15 astounded (1) 16:17 attached (1) 12:7 attack (1) 13:14 attainability (2) 79:1;80:3 attainment (4) 25:12;26:7,11,17 ATTAINS (4)
\$				
\$1,490,110 (1) 45:19	add (2) 37:13;80:20	again (4) 6:17;18:11;36:12; 75:13 against (2) 13:9;17:18 agencies (2) 16:9;17:1 agency (15) 10:16;13:21;15:10; 16:18,20;17:22;19:8; 24:13;39:11;55:18; 56:13,22;57:2;81:19; 82:9 agenda (1) 15:12 agglomerate (1) 64:10 aggregate (2) 45:13,14 ago (5) 10:18;14:11;53:6; 56:9,10 Agriculture (1) 31:9 ahead (2) 27:14;78:9 air (31) 13:22;14:10,17; 19:22;20:19;59:18; 60:1,3;63:4,10,12,15, 15,16,17,20,23;64:2, 17,23,23;65:2,13,15, 20;66:3,5,7,14,14,19 Air-0020-R1-NPD (1) 64:4 Alexandrovich (27) 5:2,3;27:12,15,16; 28:1,14,16,17;29:3,4; 33:12,13;35:14,15; 41:1,2;42:19,20;49:6, 7;50:14,16;62:2,3; 83:15,18 aligned (1) 79:5 Aligning (1) 31:18 alignment (1) 31:14 allow (6) 12:16;44:22;58:11; 60:5;72:8;79:2 allowed (1) 57:8 allowing (1) 58:15 allows (4) 55:11,11,21;60:15	added (1) 37:20 adding (1) 38:10 addition (5) 44:3,21;47:9; 52:12;54:16 additional (4) 53:12;76:2;79:16; 80:19 Additionally (1) 37:19 additions (4) 9:7;38:4,17;75:16 address (7) 13:5;16:9;60:3; 71:7;72:10;74:19; 84:15 Administration (3) 13:2;53:3,13 administration's (1) 17:18 administrative (4) 17:17;30:21;46:4; 64:19 adopt (13) 27:2;28:13;32:6; 33:1;35:4;40:16; 41:23;45:2;48:4,11, 17,20;61:10 adopted (18) 26:6;30:10,17,18; 31:23;32:5;36:12,21; 41:22;43:20;44:7; 50:4;51:17;52:17; 60:11;63:1;65:14; 84:6 adopting (1) 18:8 Adoption (25) 23:3,4;24:21; 26:19;28:7;30:6; 32:18;36:15;39:2,16; 40:8;43:23;44:18; 45:22;46:16;47:6; 48:4;50:5;51:18,21; 52:2,10;53:2;54:13; 61:1 advocate (1) 10:8 affect (2) 13:14;19:14 affected (2) 12:21;64:18 affecting (1) 77:22 affects (2)	
[
[sic] (8) 29:23;34:7;36:9; 41:19;43:17;50:1; 51:14;62:21				
A				
ability (6) 53:22;56:20;57:13; 58:1,7,21 able (8) 12:9;17:3;20:14; 48:17;56:8;57:15; 58:21;81:17 accepted (1) 48:20 access (1) 7:22 according (1) 38:21 account (1) 73:23 accounted (2) 20:5,9 accurately (2) 25:14;66:18 achieve (3) 83:5;84:8,8 acknowledge (1) 81:3 acres (1) 73:12 acronyms (2) 38:1,8 across (2) 10:16;31:21 Act (7) 13:8;18:18;23:15; 60:1;67:8,23;68:4 action (9) 54:22;63:16;64:17, 21;65:1,13,16,20; 66:3 actions (1) 23:3 activated (1) 38:15 actively (1) 81:21 activities (2) 31:21;79:17 activity (1) 12:2				

<p>71:19,20;72:4,6 attendance (1) 81:6 attending (1) 23:22 attention (1) 3:4 Attorney (2) 18:13;21:7 attorneys (1) 27:22 audience (1) 81:3 audit (2) 57:2,3 author (1) 17:12 authority (3) 39:11;44:16;79:6 available (8) 24:3,5,13;27:3; 32:7;54:4;66:9;71:22 avenue (1) 56:23 average (3) 10:16;37:14;63:22 averaging (1) 10:19 avoid (2) 25:20;26:15 aware (1) 17:12 aye (25) 9:17,18;29:2;30:3; 33:11;34:10,22; 35:13;36:8,12;40:23; 41:18,22;42:18; 43:16,19;49:5,23; 50:4,17;51:13,17; 62:1,20,23</p>	<p>47:16 beaver (1) 71:11 becomes (1) 24:13 becoming (1) 17:12 beds (1) 38:15 beginning (2) 71:15;82:5 believes (1) 39:14 beneficial (3) 48:12;81:12,14 best (1) 55:15 better (8) 20:15;55:10,11; 60:10,11;75:21; 81:13;83:22 Beverly (1) 47:19 beyond (2) 26:21;57:11 Biden (1) 13:2 big (2) 22:16;23:21 Bill (31) 3:13,15;4:2;11:17, 18,19;12:21;17:6,6, 11,18,20;18:1,14; 28:15;35:6;42:14,15; 49:1;50:9;55:9; 56:18;61:20,22;78:8; 82:2,2;83:11,13,18; 84:13 billion (1) 63:21 bills (3) 16:6,11,16 Bill's (1) 82:4 biological (2) 70:14;74:6 bit (5) 70:10,10;77:21; 80:18;83:6 Blake (1) 17:9 Board (61) 3:10;6:21;9:6,18; 14:11;16:21;17:13, 20;18:4,16;19:9; 22:2,6,11,17;23:3; 24:2,5,6,20;25:7; 26:7;27:2;28:7,10; 30:5,14,18;32:6,18, 21;36:14;37:5;39:5, 8;40:1,8;43:22; 44:11,20;45:2;47:5, 13;51:20;52:9,20;</p>	<p>54:2,13,19;55:8; 56:20;61:1,7;67:11; 78:12;79:7;80:16; 81:8;84:5,15,20 Board's (2) 39:16;46:16 bodies (6) 70:23;71:1;72:21; 73:1;74:12;77:2 body (5) 69:14,19,22;70:2; 71:5 Bortner (18) 5:13,14;29:15,16; 33:22,23;36:1,2; 41:11,12;43:6,7; 49:16,17;51:3,4; 62:12,13 both (7) 26:9,13;38:23; 81:16;82:13;83:2,5 bothering (1) 14:5 bottom (1) 7:23 bound (1) 68:23 Branch (4) 21:22;37:7;44:13; 67:14 break (1) 73:2 Brian (8) 5:19,22;6:3,10,13; 19:22;47:19;60:2 bridge (1) 77:19 brief (1) 54:21 briefly (1) 27:17 bring (1) 58:8 bringing (1) 59:18 Bruce (1) 12:14 Bruno (2) 11:1;15:16 budget (2) 57:20,21 BUMP (5) 7:2,6,8;67:16; 76:18 business (1) 9:4 butcher (1) 6:18</p>	<p>call (9) 3:8,9,11;16:1;21:4; 35:10;40:20;49:2; 61:14 called (4) 7:12;8:9,13;11:18 Calvin (1) 54:21 came (4) 13:3;56:15;59:9,14 can (41) 3:12;8:5,12;11:10, 17;12:16;14:7;18:15, 16,18;22:5;27:17,21; 34:17,18;39:12,17, 19;46:17;48:12; 55:15;66:11;67:16; 69:19;70:17;71:10; 72:9,13;74:4,5;75:8, 12;76:7;77:18;78:9; 81:4,8;82:16;83:4,19, 19 capacities (1) 21:9 carbon (1) 38:15 card (2) 7:14;23:20 cards (6) 7:15;27:10;32:11; 39:21;46:22;54:9 care (1) 16:3 Carrie (3) 4:16;6:16,20 case (1) 59:9 categories (2) 69:14;70:9 category (10) 69:21;70:1,4,11,18, 19,21;71:1,13;74:20 cause (3) 24:14;38:17;73:18 caused (1) 20:4 causes (2) 73:17;74:3 Center (1) 24:4 certain (3) 31:6;75:4;77:21 certainly (6) 5:23;6:10;21:1; 57:18;58:3,12 certainty (1) 80:6 CFO (1) 31:18 CFR (2) 25:16;26:2 Chair (12) 27:13;30:2;34:9;</p>	<p>36:11;41:21;43:19; 48:6;50:3;51:16; 54:20;62:23;83:15 CHAIRMAN (216) 3:3,15,17,21,23; 4:2,6,10,12,14,16,20, 22;5:1,4,6,8,12,15,18, 21;6:8,15,20;7:3;9:2, 10,14,16,19,22;16:4, 14;19:3,5,12,18,20; 21:15,18;22:14,20, 23;24:18;27:6,9,14; 28:3,5,12,18,22;29:1, 3,5,7,9,11,13,15,17, 19,21,23;30:2;32:10, 13,16,23;33:3,6,10, 12,14,16,18,20,22; 34:1,3,5,7,9,16,18,21; 35:2,7,10,14,16,18, 20,22;36:1,3,5,7,9, 11;37:3;39:20,23; 40:3,6,15,18,20;41:1, 3,5,7,9,11,13,15,17, 19,21;42:3,5,9,12,16, 19,21,23;43:2,4,6,8, 10,12,14,17,19; 46:21;47:1,4,15,23; 48:7,14,19,23;49:2,6, 8,10,12,14,16,18,20, 22;50:1,3,8,10,14,18, 20,22;51:1,3,5,7,10, 12,14,16;52:4;54:6,9, 11;56:2;59:1,3;60:9, 22;61:9,12,14,18,22; 62:2,4,6,8,10,12,14, 16,19,21,23;66:21; 67:1,3,18,21;76:12, 19,22;78:1,4;80:11, 14;81:11,23;82:6; 83:10,17;84:9,12,18 Chairwoman (2) 9:1;78:11 challenge (2) 25:22;26:3 challenged (1) 65:12 Chambers (5) 3:21,23;28:20,22; 33:8 change (6) 31:22;32:4;38:18; 39:3;60:19;74:22 changed (2) 32:4;46:10 changes (13) 18:2;30:11;33:1; 36:22;39:12;40:16; 44:8;48:12,17,21; 74:10,16;75:19 characterize (1) 83:21 charge (1) 57:14</p>
B		C		
<p>back (6) 8:23;14:16;20:2; 55:19;75:12;79:23 ban (1) 18:19 bar (3) 8:1,3,4 based (5) 14:18;15:3;25:18; 53:16;77:14 basically (5) 16:10,18;69:11,21; 70:21 basin (2) 77:10,14 basins (2) 77:7,7 basis (1) 57:4 bear (1)</p>	<p>Cal (3) 5:4;12:14;56:6</p>	<p>Cal (3) 5:4;12:14;56:6</p>	<p>Chair (12) 27:13;30:2;34:9;</p>	

chat (6) 7:21,22;8:5,6,8,18	8:12;23:20;68:13, 14,18	conflict (1) 25:21	core (1) 10:20	D
check (1) 21:14	comments (6) 7:10;8:9;54:22; 69:2;76:10;78:8	confusion (2) 26:15;31:15	correction (1) 32:1	
Chicago (1) 13:20	Commissioner (7) 5:18,22;6:3,13; 16:4;19:19;78:13	connect (1) 38:1	corrections (2) 9:7;21:7	daily (3) 63:12;66:9;71:3
Chief (2) 21:3;63:8	Communications (1) 7:9	connected (1) 4:3	corresponding (1) 45:20	dam (1) 71:11
Child (1) 21:8	communities (7) 73:22;78:23;79:15, 15;81:2;82:15,18	Conservation (3) 31:10,10;32:2	cost (4) 57:3;59:11;79:13, 15	Dan (1) 5:13
Chris (9) 4:8;17:9;21:19,22; 22:14,21;23:1;33:5; 35:8	community (6) 14:4;38:5;55:3; 70:14;71:9;80:22	consider (6) 28:7;32:18;40:8; 47:5;54:13;61:1	cost-of-service (3) 57:3;59:12;60:16	data (10) 14:3;68:10;70:5; 71:21;72:6,16;74:18; 79:11,21;80:2
chromium (1) 75:4	companies (1) 12:8	consideration (2) 25:11;53:1	costs (2) 46:8;53:17	database (1) 71:20
citation (1) 64:18	compared (2) 74:9,13	considered (5) 16:6;24:1;68:7; 70:18;71:13	Council (2) 30:23;31:4	date (6) 22:1,11;32:1;45:4; 65:10;84:19
cite (2) 39:6;46:3	complete (2) 7:14;18:14	consistency (2) 31:11,16	Counsel (9) 21:23;24:4,11; 25:9;30:16;37:6; 44:12;48:9;52:23	David (1) 81:5
citizens (3) 66:19;72:8;79:6	completed (1) 7:17	consistent (2) 26:23;37:10	counties (8) 25:14;26:4,9,12, 18;64:6,8;65:17	Davidson (32) 5:4,5;12:15;29:19, 20;34:3,4;36:5,6; 40:17,17;41:15,16; 42:2,2;43:10,11,12, 13;49:20,21;50:7,7; 51:8,9;54:20,21; 58:23;61:11,11; 62:16,18
Citizen's (2) 23:15;78:6	compliance (3) 10:13,17;13:15	Consolidated (5) 23:13;67:6;68:20; 69:10;74:23	County (8) 23:4;25:1,10,17, 23;26:1;27:18;28:9	Daviess (1) 26:4
city (2) 72:10;79:8	comply (1) 64:15	constraints (1) 60:1	couple (7) 10:18;16:16;20:3; 52:5;7:54;21;66:6	Day (6) 23:11;63:5,16; 64:21;65:1,13
Civil (2) 13:8,10	components (2) 64:14;72:3	construction (1) 31:17	course (1) 64:10	days (9) 10:19,19;64:16,17; 65:7,16,18,21;66:3
clarification (1) 38:12	compounds (1) 64:12	consumption (3) 69:18;70:20;73:23	cover (3) 11:17;46:7;77:9	deal (2) 12:1;60:15
clean (6) 11:11;23:15;60:1; 67:7,23;68:4	compromise (1) 83:20	contact (1) 38:14	Craig (2) 78:7;80:14	dealing (1) 11:5
clear (1) 38:13	concentration (2) 75:10,11	contained (3) 26:18;53:15;65:4	create (1) 12:16	decades (2) 65:23;66:6
click (2) 8:5;72:12	concentrations (1) 63:22	contains (1) 68:22	created (3) 12:13;56:22;72:14	Definition (11) 23:6;36:19;37:9, 11,12,18,19;38:2,22; 39:4;40:12
close (1) 20:15	concept (1) 59:21	contamination (3) 11:4,6,12	Criteria (2) 23:17;78:17	definitions (2) 37:16;38:5
closely (2) 11:13;13:17	concern (1) 64:3	continually (1) 15:4	crossings (1) 77:19	delegated (1) 39:10
coagulation (3) 38:11,16;39:1	concerned (2) 19:15;82:17	continue (4) 15:3,17;79:9;83:9	crossover (1) 26:16	Department (4) 15:7;21:7,8;31:9
coal (1) 20:17	concerning (8) 24:21;25:21;30:6; 36:15;43:23;44:18; 51:21;52:10	continuing (3) 74:19;80:20;81:8	cue (1) 21:2	depending (1) 7:23
Code (5) 25:15;32:2;39:6; 46:4;64:19	concentrations (1) 63:22	conversation (1) 78:22	curious (1) 72:1	depends (1) 77:4
Coli (1) 73:19	concept (1) 59:21	conversations (3) 16:15;20:23;58:22	current (4) 53:17;68:2;72:18; 79:4	Deputy (1) 78:13
collected (1) 46:6	concerns (2) 13:5;79:13	conversion (2) 75:3,8	currently (9) 18:6,15;26:1;53:1; 64:7;72:5,20;75:22; 77:3	Derf (4) 63:3,7,8;67:2
collecting (2) 15:9,14	concluded (6) 28:6;32:17;40:7; 47:5;54:12;60:23	convert (1) 64:8	CWA (1) 79:6	described (1) 53:6
Collier (1) 6:21	condition (2) 13:11;68:2	cool (2) 15:6,15	cycles (1) 71:15	
coming (1) 10:21	conditions (2) 63:13;65:6	Coordinator (1) 67:12		
COMM (11) 5:20;6:1,7,14;10:2, 3;16:13;17:5;19:11, 17;20:8	conduct (1) 53:23	copper (1) 75:4		
comment (5)	conducted (1) 44:15	copy (1) 24:11		
	Confined (3) 31:12;45:8;46:12	copying (1) 31:3		

<p>design (1) 31:16</p> <p>designated (6) 68:6;69:15,15; 70:12;72:22;73:10</p> <p>designation (5) 25:13,17,22;26:8, 17</p> <p>Designations (5) 23:4;24:22;25:1, 11;28:9</p> <p>despite (1) 66:4</p> <p>detail (2) 70:10;77:21</p> <p>detailed (1) 39:19</p> <p>Details (1) 65:4</p> <p>determine (2) 70:5;71:8</p> <p>determined (1) 53:16</p> <p>determining (1) 38:19</p> <p>develop (4) 64:21;65:2;74:19; 78:23</p> <p>developing (1) 75:3</p> <p>Development (5) 21:22;25:8;30:15; 37:7;44:13</p> <p>device (1) 8:1</p> <p>dialogue (2) 8:6;82:11</p> <p>different (12) 11:1;15:1;16:19, 23,23;21:9;57:13; 60:7;69:20;70:19; 72:11;74:3</p> <p>differs (1) 26:1</p> <p>Dioxide (2) 24:22;25:10</p> <p>direct (1) 26:19</p> <p>direction (1) 74:11</p> <p>directive (1) 18:20</p> <p>Director (1) 5:13</p> <p>discharge (2) 82:18,19</p> <p>discussion (6) 28:10;32:21;40:13; 47:13;54:19;61:7</p> <p>dissolved (5) 74:7;75:1,8,11,13</p> <p>distributed (1) 9:8</p>	<p>divided (1) 77:6</p> <p>DNR (1) 16:23</p> <p>Document (9) 23:10;63:3;65:1,5; 68:18,21,22;71:4; 75:1</p> <p>documents (4) 30:22;31:3;69:3; 76:10</p> <p>dollars (2) 14:13;45:14</p> <p>done (8) 14:19;17:2;18:9; 51:23;57:2;59:13; 63:19;77:14</p> <p>door (3) 12:11;55:18,22</p> <p>Doriot (1) 17:10</p> <p>down (13) 10:14;13:19;14:16; 20:1,13,14,17;73:3; 76:14;79:9;82:22; 83:9;84:14</p> <p>dozen (1) 65:20</p> <p>Dr (43) 4:14,15;5:2,3;9:12; 27:12,15;28:1,16; 29:1,2,3,4;33:10,11, 12,13;35:12,13,14, 15;40:22,23;41:1,2; 42:17,18,19,20;49:4, 5,6,7;50:12,14,15,17; 61:23;62:1,2,3;83:15, 18</p> <p>draft (5) 25:3;68:17;72:3, 19;76:9</p> <p>drinking (4) 38:18,20;39:9; 69:17</p> <p>drives (1) 64:11</p> <p>driving (1) 6:5</p> <p>drop (1) 20:16</p> <p>due (2) 30:20;68:12</p> <p>Duke (2) 6:16,22</p> <p>during (5) 30:20;68:1,17; 69:4;82:17</p>	<p>13:20</p> <p>echo (2) 22:15;48:14</p> <p>educate (1) 58:3</p> <p>education (2) 55:5,10</p> <p>effect (1) 82:19</p> <p>effort (1) 83:7</p> <p>eight-hour (2) 25:18;63:21</p> <p>either (7) 10:4;71:2,4;72:21; 83:1,14;84:4</p> <p>eliminate (1) 31:15</p> <p>eliminated (1) 56:20</p> <p>else (3) 13:11;14:6;47:2</p> <p>e-mail (2) 8:19;66:10</p> <p>emission (3) 14:23;15:2;65:22</p> <p>emissions (6) 14:18,20;20:13; 64:14,16,16</p> <p>encourage (1) 55:4</p> <p>encouraged (2) 81:16;82:8</p> <p>end (2) 37:14,15</p> <p>ends (1) 12:22</p> <p>Energy (1) 6:16</p> <p>enforcement (1) 13:16</p> <p>Engdahl (3) 52:19,20,21</p> <p>enhanced (5) 38:11,15,16,23; 39:1</p> <p>enough (2) 20:10;70:5</p> <p>ensure (4) 26:10,22;31:19; 66:17</p> <p>entertain (1) 58:12</p> <p>entire (4) 24:5;77:9,13,22</p> <p>entrance (1) 7:16</p> <p>Environmental (18) 3:9;12:23;13:6,15, 21;14:2;17:13;18:4; 24:20;30:5;36:14; 43:22;44:19,19,23; 45:2;51:20;52:9</p>	<p>EPA (14) 6:2;11:7,9;13:18; 23:16;25:19;37:9; 38:12;39:10,14; 68:12;69:4;71:5,17</p> <p>EPA's (2) 69:4;72:7</p> <p>equate (1) 63:23</p> <p>equivalent (2) 73:6,11</p> <p>error (1) 30:21</p> <p>errors (2) 26:16;74:18</p> <p>especially (1) 79:14</p> <p>essential (1) 53:21</p> <p>established (1) 45:20</p> <p>estimate (1) 75:9</p> <p>estimation (1) 77:13</p> <p>Etzler (37) 3:13,15;4:2;28:15, 15;29:21,22;34:5,6; 35:6,6;36:7,8;41:17, 18;43:15,16;49:1,1, 22,23;50:9,9;51:10, 12,13;61:20,20,22; 62:17,19,20,20;78:8; 82:2,6;84:1</p> <p>even (4) 12:10;14:21;18:20; 64:2</p> <p>even-numbered (1) 68:2</p> <p>event (1) 66:13</p> <p>eventually (1) 60:18</p> <p>everybody (5) 6:4;21:2;52:5; 55:21;67:16</p> <p>everybody's (2) 3:4;18:2</p> <p>everyone (3) 8:15;10:4;63:7</p> <p>evolved (1) 78:18</p> <p>exceed (1) 63:20</p> <p>exceeding (1) 63:22</p> <p>exception (1) 65:18</p> <p>exchange (1) 82:12</p> <p>excuse (4) 45:3;46:1;68:20; 69:13</p>	<p>Executive (1) 5:13</p> <p>Exhibit (5) 25:3;30:9;36:20; 44:6;52:16</p> <p>existing (2) 14:3;79:11</p> <p>exists (1) 79:22</p> <p>experience (2) 21:10,11</p> <p>explained (1) 57:3</p> <p>extended (1) 45:4</p> <p>external (1) 12:14</p> <p>extremely (1) 65:19</p> <p>eye (1) 22:7</p>
F				
			<p>fact (2) 13:8;66:4</p> <p>fall (4) 11:7;19:8;54:23; 55:19</p> <p>favor (1) 9:16</p> <p>feature (3) 7:21,22;8:18</p> <p>features (1) 8:8</p> <p>February (3) 3:1,5,10;68:16</p> <p>federal (10) 25:14,15,19;26:19, 22,23;37:11,18; 38:21;39:11</p> <p>fee (17) 12:6;14:10,18; 45:14,16,17;53:7,10, 15,17;55:20;56:15, 17;57:5;59:5,14;60:3</p> <p>feedback (1) 21:2</p> <p>Feeding (3) 31:12;45:8;46:12</p> <p>feel (2) 81:11,18</p> <p>fees (36) 14:12,12;15:3; 23:7,8;44:5,15,19,23; 45:5,10,11,19,20; 46:7,8,14;47:12; 48:5;52:3,15;53:2,8, 14;54:18;56:8,10,12, 20;57:14;58:15; 59:10,22;60:11,14; 61:6</p> <p>fellow (1)</p>	

<p>55:2 few (6) 3:5;16:15;22:6; 45:23;53:6;73:1 fewer (3) 74:11,12;75:16 figure (4) 11:10;13:4,18,18 figured (1) 20:21 figuring (1) 14:1 fill (1) 23:19 filling (1) 5:11 filter (1) 38:15 final (28) 23:4;25:18;26:6; 27:2;30:6,18;31:23; 32:5,6,18;35:4; 36:15;39:16;40:8; 41:23;43:23;46:16; 47:5;48:4;50:5; 51:17,21;52:2,10; 53:2;54:13;61:1,10 finalized (1) 68:11 finally (1) 15:6 find (6) 3:5;15:4;16:17; 27:21;68:5;76:5 finding (3) 37:9;47:18;82:14 fine (1) 64:9 finer (1) 82:20 fire (2) 15:10,14 first (11) 3:8;9:4;10:1;16:6; 32:5;34:22;54:22; 56:7,9;58:4;78:9 fiscal (4) 26:20;30:22;31:2; 53:22 fish (8) 69:18;70:7,15,20; 71:9;73:21,22;74:2 five (3) 11:3;57:9;69:14 five-year (1) 45:1 fix (1) 71:11 Floor (1) 24:4 foam (2) 15:9,14 focused (3)</p>	<p>79:1;80:23;81:20 focusing (1) 11:2 folks (1) 11:9 followed (1) 73:20 following (2) 23:2,9 force (1) 56:14 forecast (5) 63:17;64:23;65:3; 66:14,17 forecasters (2) 63:15;66:15 forecasting (1) 65:12 forecasts (4) 63:12;65:13;66:8,8 foresee (1) 83:22 forgot (1) 21:3 formation (1) 64:14 formulas (2) 75:3,9 Fort (1) 79:8 forth (2) 7:5;53:20 Forum (1) 84:15 forward (3) 56:23;80:22;83:8 found (7) 11:21;15:11;31:12; 70:14;74:14;82:13; 83:7 four (5) 18:3;69:20,22,23; 79:20 frames (2) 10:15,16 frankly (2) 12:19;20:12 front (1) 18:17 fulfilling (1) 53:19 full (1) 68:19 fully (2) 69:23;70:2 fund (2) 15:4;56:13 funded (1) 58:15 funding (2) 14:14;19:23 funding's (1) 14:16</p>	<p>further (7) 27:3,23;32:8,21; 40:13;47:13;61:7 future (5) 31:17,19;44:22; 55:23;58:20</p> <p style="text-align: center;">G</p> <p>GAC10 (3) 38:11,13,23 GARD (220) 3:3,15,17,21,23; 4:2,6,10,12,14,16,20, 22;5:1,4,6,8,12,15,18, 21;6:8,15,20;7:3;9:1, 2,10,14,16,19,22; 16:4,14;19:5,12,18, 20;21:15,18;22:14, 20,23;24:18;27:6,9, 13,14;28:3,5,12,18, 22;29:1,3,5,7,9,11,13, 15,17,19,21,23;30:2; 32:10,13,16,23;33:3, 6,10,12,14,16,18,20, 22;34:1,3,5,7,9,16,18, 21;35:2,7,10,14,16, 18,20,22;36:1,3,5,7,9, 11;37:3;39:20,23; 40:3,6,15,18,20;41:1, 3,5,7,9,11,13,15,17, 19,21;42:3,5,9,12,16, 19,21,23;43:2,4,6,8, 10,12,14,17,19; 46:21;47:1,4,15,23; 48:7,14,19,23;49:2,6, 8,10,12,14,16,18,20, 22;50:1,3,8,10,14,18, 20,22;51:1,3,5,7,10, 12,14,16;52:4;54:6,9, 11,20;56:2;59:1,3; 60:9,22;61:9,12,14, 18,22;62:2,4,6,8,10, 12,14,16,19,21,23; 66:21;67:1,3,18,21; 76:12,19,22;78:1,4, 11;80:11,14;81:11, 23;82:7;83:10,15,17; 84:9,12,18</p> <p>Garten (1) 17:9 gas (1) 20:13 gather (1) 79:21 gave (1) 56:19 General (3) 18:13;44:17;53:20 generally (1) 65:6 General's (1) 21:7</p>	<p>given (2) 7:16;74:4 gives (3) 39:10;77:19,20 goals (1) 83:5 goes (1) 17:13 Good (23) 10:3,10,10;14:19; 15:17;16:2;19:13; 21:21;25:6;30:13; 37:1,4;44:10;52:21; 57:22;63:7;67:10; 75:9;76:19;78:11,21; 80:16;81:20 Google (1) 76:7 government (2) 21:12;24:4 Governor (2) 5:9;16:22 Governor's (2) 15:12;17:23 gradually (1) 75:21 granular (1) 38:14 grapple (1) 13:13 great (6) 6:4,9;12:9;17:21; 21:10;48:15 greatest (1) 73:18 Green (2) 4:10,12 group (8) 12:12,14;59:4,9, 11;79:19,19;80:21 groups (2) 64:1;78:20 guess (3) 55:4;83:18;84:14 Guidance (3) 23:11;63:4;64:20 guilty (1) 60:13 guys (2) 18:5;21:2</p> <p style="text-align: center;">H</p> <p>habitat (1) 71:10 Hackney (3) 30:12,13,14 half (2) 16:7;52:7 hand (7) 7:18,21,22;8:7,7, 12;24:15 handled (1)</p>	<p>17:22 handling (1) 7:5 happen (2) 17:10;82:17 happened (3) 16:7,16;48:1 happening (1) 17:4 happens (1) 58:14 happy (7) 15:16,20,20;21:13; 22:12;27:21;66:20 hard (4) 16:1;81:4;82:12; 83:4 hazardous (4) 45:11;53:4,9;64:3 healthy (1) 82:11 hear (10) 9:10;34:13,17,18; 35:3;42:7,10,15; 48:18;61:16 heard (2) 34:12;84:19 Hearing (19) 9:22;11:16;24:19; 25:4;28:6;30:4,11; 32:16;36:13,22;40:6; 43:21;44:8;47:4; 51:19;52:8,18;54:11; 60:22 hearings (3) 23:2,19,23 heat (1) 64:11 heating (1) 64:11 heavily (1) 19:1 heavy (1) 12:6 held (1) 31:20 Hello (1) 37:4 help (3) 14:7;46:15;81:22 helped (1) 65:23 helpful (1) 48:16 helping (1) 47:20 Hickman (1) 81:6 Higginbotham (3) 78:6,10,12 High (7) 23:11;63:5;64:21; 65:7,9,11;66:18</p>
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<p>Historically (1) 65:15</p> <p>Homeland (1) 15:8</p> <p>homework (1) 17:2</p> <p>hope (2) 47:20;58:21</p> <p>hopefully (3) 15:13;17:16;75:15</p> <p>hoping (1) 79:9</p> <p>Horn (22) 4:8,9;29:13,14; 33:4,5,20,21;35:8,9, 22,23;41:9,10;43:4,5; 49:14,15;51:1,2; 62:10,11</p> <p>horrible (1) 20:19</p> <p>House (3) 17:6,7;55:9</p> <p>How's (1) 72:7</p> <p>Huff (18) 5:10,10;29:5,6; 33:14,15;35:16,17; 41:3,4;42:21,22;49:8, 9;50:18,19;62:4,5</p> <p>huge (1) 20:16</p> <p>Huntington (2) 25:23;27:18</p>	<p>38:19;39:11,12,14, 18;46:18;53:18;54:2, 3;65:8,10;67:13; 68:9;69:1,11;76:8; 78:6,14;80:8</p> <p>IDEM's (27) 7:8;8:22;16:20; 24:6;30:10;33:1; 36:21;39:9;40:16; 44:7,15;45:18;46:7, 15;48:11,17,20; 52:22;53:3,9,22; 63:3;64:23;66:7,9; 72:15;75:20</p> <p>identify (1) 8:15</p> <p>IDNR (1) 5:13</p> <p>IEDC (1) 5:15</p> <p>immediately (1) 45:15</p> <p>impact (6) 20:11,12,20;26:20; 30:22;31:2</p> <p>Impaired (18) 23:13;67:5;68:7; 70:3,12,16,23;71:2,9; 72:12,12,22;73:4,10; 74:6,7,12;75:23</p> <p>impairment (8) 72:13,14;73:2,17, 18;74:3;75:12,15</p> <p>impairments (7) 71:6;73:1;74:1,12, 14,20;75:20</p> <p>implementation (2) 38:18;71:18</p> <p>important (1) 60:17</p> <p>imposed (1) 26:22</p> <p>improve (1) 55:6</p> <p>improvements (1) 74:15</p> <p>include (3) 37:21;38:6;59:21</p> <p>included (4) 24:2;26:5,12;53:10</p> <p>includes (1) 65:5</p> <p>including (2) 73:13,14</p> <p>inconsistency (1) 37:12</p> <p>increase (6) 44:14,22;45:5,13; 53:2,7</p> <p>increased (5) 14:12;45:10,11,17; 46:14</p> <p>increases (4)</p>	<p>45:16,17;53:10; 57:5</p> <p>incurred (1) 53:18</p> <p>Index (1) 63:23</p> <p>Indiana (25) 3:9;24:20;26:18; 30:5;36:14;39:6; 43:22;46:2,4;51:21; 52:9;64:6,18;65:7, 17;66:1,19;69:12; 70:22;71:16;72:19; 73:7,20;76:3;81:1</p> <p>Indianapolis (1) 79:6</p> <p>Indiana's (2) 25:13;69:10</p> <p>individual (1) 72:20</p> <p>individuals (3) 12:13;37:15;66:11</p> <p>industries (1) 20:18</p> <p>information (10) 18:2;27:20,21; 70:5;76:2,6;79:11,16, 21;84:7</p> <p>inherently (1) 60:12</p> <p>initiated (1) 26:10</p> <p>initiatives (1) 10:22</p> <p>innovative (3) 12:17;55:20;57:13</p> <p>input (3) 55:1,7,14</p> <p>insect (1) 73:22</p> <p>insects (1) 70:15</p> <p>inspection (2) 24:3,10</p> <p>installments (1) 57:16</p> <p>integrated (3) 64:5;67:12;72:3</p> <p>integrity (3) 53:22;73:21;74:6</p> <p>intent (1) 56:21</p> <p>interest (2) 58:17;81:9</p> <p>interested (1) 31:15</p> <p>interesting (1) 76:15</p> <p>internally (1) 12:13</p> <p>into (14) 10:9,21;12:8;13:3, 7;25:4;30:11;36:22;</p>	<p>44:8;52:17;55:22; 69:14;70:10;77:6</p> <p>introduce (6) 21:3;25:3;30:9; 36:20;44:6;52:16</p> <p>involved (3) 12:6;58:17;82:4</p> <p>iron-bearing (1) 64:9</p> <p>issuance (1) 53:23</p> <p>issue (4) 11:21;13:1;63:12, 16</p> <p>issued (4) 64:17;65:13,16,21</p> <p>issues (3) 6:11;13:15;60:3</p> <p>issuing (2) 46:9;66:3</p> <p>item (1) 15:11</p> <p>items (1) 18:1</p>	<p>7:1,2,4,7;9:2</p> <p>key (2) 64:14;75:18</p> <p>kind (14) 10:9;12:2,15; 15:19;16:8;17:7; 22:15;54:23;58:10; 68:19;77:18;78:18; 79:1;80:1</p> <p>Kindrick (7) 7:17;23:20;27:11; 32:12;39:22;46:23; 54:10</p> <p>kinds (1) 58:8</p> <p>KING (8) 48:6,8,9,15;52:1; 56:4;59:2,6</p> <p>know-how (1) 21:11</p> <p>knowledge (1) 55:15</p> <p>known (2) 71:18;81:7</p> <p>knows (1) 69:11</p> <p>Korioski (5) 41:19;43:17;50:1; 51:14;62:21</p> <p>Koroski (3) 29:23;34:7;36:9</p> <p>Kozyrski (13) 4:18,18,20,21; 6:19;30:1;34:8; 36:10;41:20;43:18; 50:2;51:15;62:22</p> <p>Krystal (2) 30:12,14</p>
I			J	
<p>IAC (69) 23:12;24:22,23; 28:8;30:7;31:8,13; 32:3,19;36:16,16,16, 17,17,18;37:20;38:3, 10;39:5;40:9,10,10, 10,11,11;44:1,1,1,2,2, 2,3,4,4,4;46:1,3;47:6, 7,7,7,8,8,9,10,10,11; 52:11,11,12,12,13,13, 14;54:14,15,15,16, 16,17,17;61:2,3,3,3,4, 4,5;63:6</p> <p>IC (7) 44:18,21;45:6,7,7, 12,12</p> <p>icon (1) 8:5</p> <p>idea (3) 16:20;55:21;75:6</p> <p>ideas (4) 12:9;57:19;58:9; 82:12</p> <p>IDEM (29) 10:1;11:7,9;15:7; 16:23;17:18;18:15; 21:6;27:1;32:6;</p>			<p>January (4) 45:3,4;68:15;78:20</p> <p>Joanne (2) 27:15;83:16</p> <p>job (7) 6:1,4,9;10:6,9; 14:19;55:11</p> <p>jobs (1) 58:16</p> <p>joined (1) 8:17</p> <p>joining (3) 7:7,19;8:11</p> <p>June (1) 25:20</p> <p>justice (3) 12:23;13:6,15</p>	
			K	
			<p>Karen (3) 4:4,6,22</p> <p>Karla (3) 7:17,18;23:20</p> <p>Katie (2) 5:9,11</p> <p>Keelyn (3) 25:5,7;27:7</p> <p>keep (1) 47:20</p> <p>keeping (2) 21:13;22:7</p> <p>Ken (5) 3:19,19;9:15; 19:21;20:9</p> <p>Kevin (5)</p>	<p style="text-align: center;">L</p> <p>lack (1) 83:21</p> <p>laid (2) 17:14;81:19</p> <p>Lake (8) 64:5,7;65:16;70:7; 73:12,13,14,14</p> <p>lakes (5) 72:21;73:3,9,9,12</p> <p>land (1) 13:22</p> <p>language (10) 25:15,23;31:22; 32:4;37:22;38:7,10; 39:3,12;45:23</p> <p>LaPorte (1) 65:16</p> <p>large (1) 77:7</p> <p>last (6) 4:17;6:1,17;34:20; 54:23;78:19</p>

late (2) 3:5;63:14	5:9	60:19;82:11,12;83:4	Maze (1) 59:9	might (8) 12:21;58:9,10;
later (2) 18:10;84:23	life (1) 69:16	lowered (1) 66:5	McMurray (6) 67:4,10,11,19,22;	71:12;75:10;82:17,
latest (1) 83:20	lights (1) 47:21	M	77:3	19;83:23
latitude (1) 60:6	likely (2) 22:5;84:21	ma'am (6) 27:11;32:12;39:22;	mean (2) 13:4;17:16	mike (1) 4:7
Laughter (1) 47:22	limited (3) 45:13;79:3;80:4	46:23;52:1;54:10	meaning (1) 81:13	miles (4) 73:6,7,8,20
law (6) 18:15;26:22;44:16;	limiting (2) 64:15;66:2	Madam (1) 48:6	means (1) 79:10	million (6) 14:13,14,15,17;
45:1;53:5,21	line (1) 79:4	main (1) 69:14	Media (2) 7:8;8:17	20:4;45:14
lawsuit (2) 56:11;59:20	lines (1) 17:8	mainly (1) 74:17	media@idemingov (1) 8:19	mills (1) 64:5
lawsuits (2) 13:8,8	link (2) 3:5;76:7	maintain (3) 39:13;53:22;57:20	meet (2) 18:5;80:2	minor (1) 45:23
lead (6) 11:3,5,12;75:5;	List (20) 23:12;67:5;68:4,9,	major (3) 12:23;74:10;75:19	meeting (21) 3:8,9;6:1;7:11,13;	minute (1) 11:17
80:4,5	12,18;69:5,9,10,13;	makes (1) 19:9	8:15,21,23;9:6;22:2,	minutes (5) 3:5;9:5,7,23;38:14
leading (1) 59:8	70:22,23;71:17;72:4,	making (1) 74:22	17;24:2,7,8;26:7;	Mishawaka (1) 81:5
least (3) 18:6;37:14;72:23	20;74:9,17,18;75:16;	Management (1) 57:21	27:20;70:15;76:16;	mixed (1) 47:17
leave (1) 76:13	76:9	Manure (5) 23:5;30:7;31:7,17;	78:19;80:1;84:20	Modeling (1) 63:9
led (1) 12:14	Listing (4) 23:14;67:6;68:21;	32:20	members (13) 7:12;8:17;9:18;	modification (1) 46:10
leeway (1) 58:1	74:23	many (6) 12:7;13:7;19:3;	25:6;30:13;37:1,5;	moments (1) 53:6
left (1) 6:21	lists (1) 76:7	22:16;56:9;74:1	39:18;44:10;46:18;	money (5) 14:20,22;15:4,11;
Legal (11) 21:23;24:4,9,11;	literally (1) 18:10	map (1) 72:11	52:20;67:11;78:11	82:16
25:8;27:22;30:16;	litigation (2) 25:21;27:18	March (1) 15:14	mentioned (3) 20:3;60:2;78:16	monitoring (2) 76:1;77:5
37:6;44:12;48:9;	little (9) 11:1;60:5;70:9,10;	Mark (4) 5:15;17:9;63:3,8	menu (3) 8:1,3,4	months (4) 10:7;18:10;20:2;
52:22	75:21;80:18;82:23;	MaryAnn (6) 36:23;37:3,5;44:9,	mercury (1) 74:2	22:7
legislation (1) 15:21	83:3,6	11;57:7	Messmer (1) 17:9	more (26) 14:9;18:6,14,16,19,
legislative (8) 10:9;15:22;21:10;	living (3) 11:11;13:9,10	massive (1) 12:18	met (1) 39:15	22:20;18;21:16;
30:23;31:4;57:6;	load (1) 71:3	material (2) 12:17;64:12	metal (3) 75:5,10,11	28:10;39:7,19;44:23;
59:11;60:8	Local (1) 65:22	materials (1) 64:9	metals (4) 75:2,4,7,14	45:14;46:4;57:9,10,
legislators (2) 16:15;60:12	located (2) 7:15;76:10	Matt (1) 20:14	meteorological (1) 65:6	13;58:1;60:5,15,20;
legislature (8) 6:5;11:16,20;	long (4) 6:11;18:7;76:23;	matter (1) 84:6	method (1) 65:10	70:10;73:2;76:5;
18:17;56:15;58:13;	82:10	matters (1) 55:5	Methodology (4) 23:14;67:7;68:21;	77:16,21
59:14;60:18	look (8) 13:22;20:22;22:4,	maximum (1) 71:3	74:23	most (1) 24:23
legitimate (1) 11:22	9;57:13;59:11;72:18;	may (11) 8:1;11:15;12:19;	methods (1) 68:22	motion (20) 9:11;10:18;28:12;
less (3) 14:20;65:18;82:17	83:8	22:17,17;27:4;30:18;	metric (3) 10:12,13,17	30:3;32:23;33:4;
letter (2) 13:20;31:5	looking (14) 12:15;15:1;60:2,6;	32:8;54:4;63:16;69:7	metrics (2) 10:11,20	35:4,5;40:15;41:22,
level (4) 14:23;23:11;63:5;	68:9,10;69:5;74:17;	maybe (6) 10:23;14:5,6;	Michael (3) 3:21,23;5:6	23;43:20;48:4,11,16,
80:6	75:1,3;77:10;80:7,	57:15;70:6;77:20	Michigan (2) 73:13,15	20;50:4,5;51:17;61:9
levels (2) 20:3;64:3	22;84:3	Mayor (2) 81:5,5	middle (1) 8:4	mouse (1) 8:2
leveraging (1) 11:9	looks (2) 3:6;58:3		mid-sized (1) 79:15	move (7) 8:2;20:18;21:19;
Lieutenant (1)	lost (1) 59:10			28:5,14;34:11;56:23
	lot (11) 17:1;18:6,23;			moved (9) 9:12;28:15;33:2;
	19:15;20:11;21:9,10;			35:6;40:17;42:2;
				48:22;50:7;61:11
				movement (1)

<p>16:8 moving (3) 10:20;16:11;20:13 much (8) 9:3;12:19;19:23; 24:18;55:1;58:1; 77:20;79:14 multiples (1) 74:4 must (2) 64:15;65:2</p>	<p>42:17,18;49:4,5; 50:12,15,17,17; 61:23;62:1 nine (5) 8:13;14:14,16; 77:6,9 nitrates (1) 64:13 nitrogen (1) 64:13 noncommunity (1) 38:6 none (2) 9:22;21:18 nonrule (4) 23:9,10;63:3;64:4 normal (2) 20:3;22:17 normally (1) 84:22 North (1) 24:5 Northwest (4) 64:6;65:7,17;66:1 notice (2) 68:18;76:10 notification (2) 65:8;66:10 notified (1) 65:10 November (4) 9:6;26:6;30:19; 31:23 NOx (2) 64:13;65:22 NPD (2) 64:20;66:16 NPDES (2) 45:8;46:11 NRCS (1) 32:2 number (5) 11:4;20:15;21:9; 65:15;75:19</p>	<p>office (22) 13:3;14:10,17; 17:23;21:8,23;24:3, 11;25:8;30:16;37:6; 39:18;44:12;48:9; 52:22;57:21;63:4,10, 15;67:4,13;78:13 official (1) 24:14 OMB (2) 31:1,3 omitted (1) 26:4 once (5) 26:3;31:1;45:3; 57:9;69:5 one (22) 11:3,12;18:22; 24:6;32:3;39:3; 51:22;59:15;63:11; 69:9,14;70:18;72:15, 22,23;73:2;74:22; 76:22;77:7;78:23; 82:8;84:21 one-hour (2) 26:8,13 one-third (1) 73:7 ongoing (2) 12:21;25:21 on-line (1) 71:20 only (5) 12:1;31:22;53:8, 19;75:7 open (3) 24:10;55:18;84:14 operating (1) 46:8 operation (1) 46:13 Operations (2) 31:12;45:8 opinion (1) 78:21 opportunity (5) 5:22;15:7,18; 78:15;80:17 opposed (1) 9:20 option (1) 8:7 options (3) 12:1,4;21:1 order (7) 3:8,10;7:21;9:4; 25:20;37:17;56:13 organic (1) 64:12 organized (1) 71:21 original (1) 56:21</p>	<p>out (26) 11:10;13:4,18,18; 14:2;15:12;16:17; 17:7,15;20:1,21; 23:19;27:22,23;48:2; 55:1;58:5;59:9; 60:18;65:1;67:13; 73:4,10;79:12,16; 81:19 outreach (1) 14:4 outright (1) 18:19 outside (1) 68:10 over (8) 7:4;8:23;11:14; 63:21;65:20,23;66:6; 69:6 overall (1) 75:16 overview (1) 18:13 own (3) 64:21;65:2;66:14 oxygen (1) 74:7 Ozone (17) 23:4,11;25:2,10, 18;28:9;63:5,19,22; 64:15,21;65:7,9,11; 66:1,4,18</p>	<p>Parvonay (1) 21:5 pass (2) 18:16;55:23 passed (6) 14:12;17:7;30:3; 44:17;56:19;59:4 passing (1) 70:19 past (3) 65:23;66:6;71:15 path (5) 79:10;81:18;82:23; 83:9;84:3 Paul (8) 67:4,9,11;76:20; 78:6,9,12;80:20 pay (1) 57:15 PCB's (2) 73:23,23 PEDERSEN (3) 21:21,22;22:19 Pederson (1) 21:19 people (14) 11:10,11;12:16; 13:9;16:9;19:3; 22:16;55:7;57:14,19; 58:2,3,8,14 per (2) 63:21;76:1 percent (6) 10:14;14:13;20:16; 44:23;57:10;73:11 perhaps (1) 57:14 period (6) 45:1;63:22;68:14, 14;69:4,5 permit (8) 11:23;12:5,6,10,18, 19;53:23;58:15 permits (8) 10:12,14;45:8; 46:9,11,12,13;82:20 permitting (11) 13:14;23:7,8;44:5, 14;47:11;48:5;52:2, 15;54:18;61:6 permitting-related (1) 53:17 person (3) 7:13;10:5;84:16 perspective (2) 82:3;84:2 pesticide (2) 39:4,7 Petition (2) 23:16;78:6 petitioners (8) 78:7,17,20;79:13, 19;80:15;81:17;82:9</p>
N				
<p>NAAQS (2) 25:18;26:9 name (9) 4:17;6:17;7:7; 24:16;30:14;52:21; 63:8;67:11;78:12 name's (1) 21:4 Nancy (6) 48:9,14;51:22; 56:2;58:23;59:1 National (2) 63:20;66:4 natural (2) 20:13;31:9 nature (2) 27:17;77:16 navigating (1) 21:11 nay (1) 9:20 necessary (3) 22:18;26:3;53:19 need (13) 8:14;12:10;14:21; 28:12;35:4;40:15; 41:23;48:16;50:5; 58:10;61:9;66:2;84:8 needed (1) 57:6 needs (1) 37:13 Nelson (2) 5:9,11 neutral (1) 60:15 new (4) 5:18;6:3;20:21; 21:3 next (16) 13:18;22:2,6; 55:19;67:15,19;69:8; 71:14;72:17;73:16; 74:8,21;75:17;76:4; 79:20;84:20 Niemiec (22) 4:14,15;9:12,13; 29:1,2;33:10,11; 35:12,13;40:22,23;</p>				
	O			
	<p>OAQ (1) 66:7 OAQ's (1) 66:14 O'Bannon (1) 59:8 obviously (1) 58:14 occur (1) 37:22 occurs (1) 39:4 o'clock (1) 3:1 off (2) 15:22;64:11</p>			
			P	
			<p>packet (1) 24:5 packets (1) 24:2 page (3) 24:12;52:7;66:10 pages (3) 48:2;52:5,7 Palin (1) 12:14 papers (1) 47:16 parameters (1) 66:16 Pardon (1) 42:9 part (2) 69:10;82:13 participation (1) 83:11 particulate (1) 64:10 parties (4) 31:15;82:13;83:3,5 parts (1) 63:21 party (3) 17:8;37:13;83:1</p>	

<p>PFAS (1) 15:9</p> <p>phenomenal (1) 21:12</p> <p>phone (2) 8:11,14</p> <p>pick (1) 21:12</p> <p>piece (1) 18:22</p> <p>Pigott (1) 6:1</p> <p>Pike (1) 26:4</p> <p>place (3) 69:13;83:2;84:4</p> <p>Planning (1) 67:14</p> <p>plants (4) 20:12;64:5,7,8</p> <p>plastics (1) 12:3</p> <p>please (16) 7:14,20;8:7,15,18; 23:19,22;24:15; 67:20;69:8;71:14; 72:17;73:16;74:8,21; 75:17</p> <p>plus (1) 38:7</p> <p>pm (2) 3:1,11</p> <p>point (8) 18:8;20:23;22:5; 48:3;55:9;57:1;80:9; 82:16</p> <p>Policy (4) 23:10;63:3;64:4; 65:1</p> <p>pollution (1) 14:6</p> <p>poor (2) 71:10;73:21</p> <p>pop (1) 8:3</p> <p>Porter (8) 23:3;25:1,10,17; 28:8;64:6,8;65:16</p> <p>position (1) 83:1</p> <p>possibility (1) 81:20</p> <p>possible (1) 66:18</p> <p>possibly (2) 57:14;60:6</p> <p>posted (2) 8:22;24:12</p> <p>potential (3) 26:16;82:14,20</p> <p>power (1) 20:12</p> <p>Practice (2)</p>	<p>31:10;32:2</p> <p>precautions (1) 66:17</p> <p>preceding (1) 45:16</p> <p>Predicting (2) 23:11;63:5</p> <p>prediction (2) 64:21;65:9</p> <p>prefer (1) 66:13</p> <p>preliminarily (5) 30:10,17;36:21; 44:7;52:17</p> <p>preliminary (2) 39:2;45:22</p> <p>presence (1) 81:7</p> <p>present (17) 3:12,20;4:9,15,19; 5:3,5,14,17,20;25:5, 9;30:12;36:23;44:9; 52:19;65:7</p> <p>presentation (3) 20:6;63:2;67:4</p> <p>presentations (1) 23:10</p> <p>presented (9) 22:6,9;27:2;28:13; 32:7;54:3;55:16; 59:13;61:10</p> <p>presenters (1) 83:14</p> <p>pressing (2) 8:13,14</p> <p>pretty (4) 11:13;12:6;14:19; 16:17</p> <p>previous (3) 34:13,14;83:14</p> <p>previously (2) 21:5;77:17</p> <p>primacy (1) 39:13</p> <p>primary (4) 26:8,13;65:6;73:18</p> <p>print (1) 52:6</p> <p>printed (1) 48:1</p> <p>printer (2) 48:1;52:5</p> <p>prior (6) 11:20;21:5;24:6; 27:20;68:13;74:13</p> <p>priority (1) 13:2</p> <p>probabilistic (1) 77:5</p> <p>probably (5) 56:3;71:9;81:4; 84:2,23</p> <p>problem (1)</p>	<p>57:17</p> <p>procedure (2) 7:4;64:22</p> <p>process (17) 16:19;17:12,20; 18:11;22:3;30:20,21; 44:18;57:1;58:6,18; 60:15;64:11;80:2; 81:9;82:10;84:8</p> <p>processes (1) 60:5</p> <p>processing (2) 11:23;12:5</p> <p>produce (1) 68:1</p> <p>products (1) 72:7</p> <p>program (23) 11:7;14:21,22; 15:5,9;23:7,7;27:22; 44:5,15;45:10,17; 46:6,8,15;47:11;48:5, 10;52:2,14;54:18; 59:18;61:5</p> <p>programs (9) 39:9,13;45:6,12, 18;53:4,10,13;57:4</p> <p>progress (1) 81:16</p> <p>project (3) 77:4,8,20</p> <p>projects (2) 10:22;77:15</p> <p>promulgation (1) 30:20</p> <p>pronounce (2) 4:17;6:17</p> <p>proper (1) 65:8</p> <p>proposed (4) 39:3;45:16;53:15; 80:23</p> <p>protect (1) 66:18</p> <p>provide (6) 31:16;39:17,19; 46:17;53:11;80:17</p> <p>provided (1) 81:19</p> <p>provides (2) 64:20;76:2</p> <p>proxy (2) 5:8,15</p> <p>public (31) 7:11,12,13;23:6; 24:3,10,19;30:4; 36:13,18;37:10,12, 16,19,22,23;38:2,21; 40:12;43:21;44:16; 45:1,9;46:11;51:19; 52:8;53:5,21;68:13; 69:1;71:22</p> <p>published (1)</p>	<p>25:19</p> <p>pursue (1) 79:2</p> <p>put (6) 53:20;56:14,16; 57:7;59:10;72:10</p> <p>putting (1) 82:1</p> <p style="text-align: center;">Q</p> <p>QC (1) 74:17</p> <p>Quality (38) 14:10;19:23;20:19; 23:17;39:19;63:4,10, 12,15,16,17,20,23; 64:2,17,23,23;65:3, 13,15,20;66:3,5,8,14, 15,19;67:5,13;68:3,9; 69:12;72:1,16;74:15; 76:3;77:13;78:14</p> <p>Quality's (2) 14:18;63:15</p> <p>quick (1) 18:9</p> <p>quickly (1) 14:9</p> <p>quite (3) 10:7;55:8;73:1</p> <p>quorum (1) 3:7</p> <p>quote (4) 37:13,14,14,15</p> <p style="text-align: center;">R</p> <p>raise (4) 7:18;8:12;24:15; 60:14</p> <p>raised (5) 7:20,22;8:6,7; 53:14</p> <p>randomly (1) 77:12</p> <p>range (1) 64:1</p> <p>rate (1) 55:20</p> <p>raw (1) 64:9</p> <p>reach (1) 82:16</p> <p>reached (1) 55:1</p> <p>reaches (2) 72:21;73:4</p> <p>read (1) 48:13</p> <p>reading (1) 16:5</p> <p>ready (2) 22:9;56:5</p>	<p>real (1) 15:6</p> <p>realistically (1) 16:20</p> <p>realize (1) 16:18</p> <p>really (16) 10:11,20;11:8; 13:3,17;15:15;18:4; 20:20;60:17;71:6,11; 74:10;75:19;80:19; 81:11,14</p> <p>recalled (2) 30:19;31:2</p> <p>received (3) 13:20;31:4;45:15</p> <p>recently (1) 79:7</p> <p>recognition (1) 82:23</p> <p>recognized (1) 7:21</p> <p>recommendation (1) 22:10</p> <p>recommends (1) 66:7</p> <p>record (5) 25:4;30:11;36:22; 44:8;52:17</p> <p>recorded (2) 8:21;76:16</p> <p>recording (1) 76:16</p> <p>recovered (1) 20:1</p> <p>Recreational (2) 23:17;69:17</p> <p>recycle (1) 12:17</p> <p>recycling (1) 12:2</p> <p>reduce (2) 64:16;66:1</p> <p>reducing (1) 14:19</p> <p>reduction (1) 20:10</p> <p>reductions (1) 65:23</p> <p>Reference (3) 23:5;32:1;39:7</p> <p>referenced (1) 31:6</p> <p>references (2) 31:19;46:4</p> <p>referring (1) 17:6</p> <p>refers (1) 38:13</p> <p>reflect (1) 25:14</p> <p>reflected (1) 26:2</p>
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<p>regarding (13) 24:22;25:1;27:18; 36:18;40:11;44:5; 45:7;47:11;52:14; 54:18;55:9;61:5;63:4</p> <p>regardless (1) 14:22</p> <p>regards (1) 73:22</p> <p>region (2) 65:17;66:1</p> <p>regional (1) 65:22</p> <p>regions (1) 63:17</p> <p>Register (2) 25:20;46:2</p> <p>regulated (3) 19:2;31:20;55:2</p> <p>Regulations (1) 25:15</p> <p>regulatory (2) 12:16;80:6</p> <p>relate (1) 60:3</p> <p>related (2) 53:2;57:17</p> <p>relates (2) 53:8;78:17</p> <p>relooking (1) 14:10</p> <p>rely (2) 64:22;66:7</p> <p>remained (1) 56:18</p> <p>remaining (1) 74:16</p> <p>remember (2) 4:7;59:7</p> <p>reminder (2) 10:13;23:18</p> <p>remotely (1) 81:4</p> <p>remove (1) 17:19</p> <p>removed (2) 45:21;56:10</p> <p>renewals (1) 46:10</p> <p>Rep (1) 11:18</p> <p>repeal (3) 52:14;54:17;61:4</p> <p>replacing (1) 6:20</p> <p>report (12) 10:2;21:20;22:12; 67:12;68:1,8,11,19; 71:16;72:3;76:6,8</p> <p>reporter (5) 24:14,17;42:7,10; 61:16</p> <p>reports (1)</p>	<p>10:1</p> <p>representing (1) 7:8</p> <p>request (1) 23:16</p> <p>requested (1) 38:12</p> <p>requests (3) 27:1;32:6;54:2</p> <p>require (2) 39:11;83:23</p> <p>required (2) 53:5;58:16</p> <p>requirement (2) 38:22;53:20</p> <p>requirements (4) 26:20;31:11;39:14; 80:3</p> <p>requires (2) 45:2;68:1</p> <p>resent (1) 31:2</p> <p>resolved (1) 26:3</p> <p>resources (3) 11:10;31:9;68:3</p> <p>respectively (1) 45:9</p> <p>responded (1) 9:18</p> <p>response (42) 3:14,16,22;4:1,5, 11,13;5:7;9:9,21; 21:17;22:22;27:8; 28:4,11,21,23;29:8, 10;32:15,22;33:9; 34:15;37:8;40:2,5, 14;42:4;47:3,14; 50:13;51:11;54:8; 60:21;61:8,13;66:23; 76:21;78:3;80:13; 84:11,17</p> <p>responsibilities (1) 63:11</p> <p>restrict (1) 16:11</p> <p>restricted (1) 55:23</p> <p>restrictions (1) 57:7</p> <p>result (5) 45:17;60:11;74:17; 75:12,15</p> <p>reuse (2) 12:4,17</p> <p>revenue (4) 45:15,18;53:12,17</p> <p>review (5) 39:5,8;69:4,5; 71:23</p> <p>reviewing (1) 72:5</p> <p>revisions (3)</p>	<p>44:21;45:23;46:3</p> <p>RFP (1) 15:12</p> <p>Richard (1) 81:5</p> <p>right (9) 15:13;19:11;22:3; 24:15;47:23;48:16; 56:4;72:5;74:11</p> <p>Rights (2) 13,8,10</p> <p>river (1) 72:10</p> <p>road (1) 13:19</p> <p>Rockensuess (11) 5:19,20;6:7,14; 10:2,3;16:13;17:5; 19:11,17;20:8</p> <p>role (2) 10:6,21</p> <p>roll (6) 3:11;35:11;40:21; 48:13;49:3;61:15</p> <p>roll-call (4) 28:19;33:7;42:5; 50:11</p> <p>room (4) 7:13;16:1;22:16; 23:21</p> <p>rule (63) 16:21,23;18:9,12, 16;19:8,9,10;25:4,5, 9,19,23;26:6,10,22; 27:2;30:10,12,15,17; 31:1,8,12,18,18,22; 32:4,7;36:12,20,23; 37:6,22;38:7,9;39:3, 12;41:23;44:6,9,11; 45:23;48:5,21;50:6; 51:18;52:17,19,22; 53:1,7,11,16,18;54:3; 56:9,21;60:11;61:10; 63:1;64:18;65:14</p> <p>rulemaking (32) 16:9,12,21;17:2; 18:11;19:2;21:20; 22:13;23:16;25:12, 16;26:5,15,19;30:21; 31:6;37:8;38:9; 39:15;44:14;46:14; 53:4,8;57:12;58:6; 59:19;60:4,14;79:3; 80:5;83:23;84:2</p> <p>rulemakings (1) 44:22</p> <p>Rules (44) 3:10;16:19;17:13; 18:4,7;21:22;22:3,8, 8;24:1,12,20,21;25:7; 26:16,23;28:13;30:5, 6,15;31:14,21;32:19; 35:5;36:14,15;37:6;</p>	<p>40:9;43:22,23;44:12, 19;45:2,3,20;47:6; 51:20;52:9,10;54:14; 61:2;83:23;84:4,5</p> <p>Rulon (29) 3:19,20;9:15,15; 19:20,21;29:11,12; 33:2,2,18,19;35:20, 21;40:19,19;41:7,8; 42:14;43:2,3;47:18; 48:22;49:12,13; 50:22,23;62:8,9</p> <p>run (3) 14:20,22;57:4</p> <p>running (1) 80:22</p> <p>Ryan (2) 6:23;23:22</p>	<p>35:7,8;40:18,19;42:3, 8,11,12;48:23;49:1; 50:8,9;61:12,17,20</p> <p>secondary (1) 26:14</p> <p>Secoded (3) 28:16;42:13;61:19</p> <p>Section (8) 23:14;25:8;30:15; 63:8,9;67:7,23;68:3</p> <p>Section's (1) 63:11</p> <p>Security (1) 15:8</p> <p>seeing (3) 20:11;21:18;75:20</p> <p>seem (1) 75:20</p> <p>seeded (1) 16:8</p> <p>seems (3) 16:1;55:5;60:9</p> <p>segment (4) 70:17;72:2;74:5,7</p> <p>segments (3) 70:12,13;72:11</p> <p>Senate (2) 17:9,11</p> <p>send (3) 3:6;27:23;69:6</p> <p>sense (1) 19:1</p> <p>sensitive (1) 64:1</p> <p>sent (3) 30:23;31:1;69:3</p> <p>separate (3) 26:10;59:12,19</p> <p>service (1) 59:11</p> <p>Services (3) 7:9;21:8;31:10</p> <p>session (2) 10:10;18:18</p> <p>set (3) 10:17;66:16;74:5</p> <p>Seth (3) 52:19,21;54:7</p> <p>seven (3) 10:18;18:3;63:17</p> <p>several (4) 22:3;25:22;57:15; 66:6</p> <p>shared (1) 80:20</p> <p>Shelby (1) 5:10</p> <p>shore (1) 73:14</p> <p>short (1) 20:4</p> <p>shortfall (1) 19:23</p>
S				
			<p>same (9) 13:11;14:21;18:12; 30:23;31:20,21; 51:22;55:17;69:3</p> <p>sample (3) 75:7,13;77:7</p> <p>sampled (5) 68:5;70:7,13; 77:12,17</p> <p>samples (1) 75:2</p> <p>sampling (1) 77:14</p> <p>Satellite (4) 23:5;30:7;31:7; 32:19</p> <p>save (1) 82:15</p> <p>saw (1) 3:19</p> <p>saying (1) 16:10</p> <p>scale (1) 77:20</p> <p>schedule (1) 79:23</p> <p>scheduled (1) 22:1</p> <p>scheme (1) 12:16</p> <p>Schuler (22) 5:6;29:7,9;33:16, 17;34:12,16,17,19; 35:1,18,19;41:5,6; 42:23;43:1;49:10,11; 50:20,21;62:6,7</p> <p>screen (2) 7:23;8:2</p> <p>search (1) 72:8</p> <p>second (19) 9:14,15;33:3,4;</p>	

<p>show (3) 8:5;12:11;72:11</p> <p>shutdown (1) 20:4</p> <p>shutting (2) 20:12,17</p> <p>side (3) 15:23;73:16;83:1</p> <p>sides (1) 81:16</p> <p>sign (1) 66:11</p> <p>significant (1) 82:15</p> <p>sign-in (1) 23:21</p> <p>Similarly (1) 38:4</p> <p>simplifying (1) 84:7</p> <p>simply (1) 12:9</p> <p>single (1) 17:22</p> <p>sinter (3) 64:5,7,8</p> <p>sit (1) 18:17</p> <p>site (10) 8:22;13:19;24:6, 13;66:12;69:1;72:7, 9;75:13;76:9</p> <p>sites (6) 11:4,11;76:1; 77:11,11,18</p> <p>site-specific (1) 75:7</p> <p>six (2) 8:14;79:20</p> <p>size (1) 64:10</p> <p>slash (2) 79:6,6</p> <p>slide (8) 67:15,20;69:8; 71:14;72:17;74:8,21; 75:17</p> <p>slides (1) 76:15</p> <p>small (1) 82:14</p> <p>smaller (3) 12:7;77:20;79:14</p> <p>SmogWatch (2) 66:9,12</p> <p>SMSS (1) 31:18</p> <p>SO2 (7) 20:13;23:3;25:14; 26:9,13,14;28:8</p> <p>softening (2) 38:16;39:1</p> <p>Solid (9)</p>	<p>11:15,16,19,22; 12:5;45:11;53:3,9; 75:9</p> <p>solution (3) 81:21;82:14;83:6</p> <p>somebody (2) 13:11;19:7</p> <p>someone (1) 55:19</p> <p>somewhat (1) 78:18</p> <p>soon (1) 84:20</p> <p>sorry (5) 4:17;35:2;48:3; 52:4;83:21</p> <p>sorts (1) 82:21</p> <p>source (5) 64:20,22;65:2; 66:13,15</p> <p>Sources (11) 23:12;26:21;31:20; 63:5;64:15,18;65:11, 12;66:7,11;68:11</p> <p>source's (1) 65:9</p> <p>speak (2) 7:15,20</p> <p>speaker (7) 7:14,15;27:9; 32:11;39:21;46:21; 54:9</p> <p>speaking (1) 8:16</p> <p>specific (2) 58:10;84:19</p> <p>specifically (2) 39:7;46:5</p> <p>Speedy's (1) 11:18</p> <p>spells (1) 65:1</p> <p>spent (1) 83:12</p> <p>sponsors (1) 17:8</p> <p>spring (1) 63:14</p> <p>staff (7) 16:2;21:4;27:22; 39:18;46:2,18;54:3</p> <p>stakeholders (1) 55:2</p> <p>stand (1) 24:15</p> <p>standard (4) 26:13;32:2;63:23; 66:5</p> <p>standards (6) 26:14;27:1;31:11, 20;63:20;70:16</p> <p>standpoint (2)</p>	<p>17:17,19</p> <p>star (2) 8:13,14</p> <p>start (5) 12:15;14:3;15:9; 18:11;22:8</p> <p>started (8) 10:21;11:19;15:16; 56:9;58:5;68:15; 82:10,22</p> <p>starting (2) 11:20;20:22</p> <p>state (33) 11:5;13:5;14:19; 15:7,15;17:14;18:21; 21:11;23:3;24:15,20, 23;25:10;26:21,23; 28:8;30:5;31:21; 36:14;39:10;43:22; 51:20;52:9;63:13,18; 66:2;68:3;73:5,8,12; 75:23;77:6,9</p> <p>states (4) 13:1,7;31:8;68:1</p> <p>state's (2) 37:9,12</p> <p>stations (2) 15:10,14</p> <p>statistical (1) 77:12</p> <p>status (6) 25:17,22;26:8,11, 18;72:19</p> <p>statuses (1) 25:13</p> <p>statute (5) 45:21;56:16,18; 81:13;84:5</p> <p>statutes (1) 79:4</p> <p>statutorily (1) 53:5</p> <p>statutory (2) 53:19;58:10</p> <p>steel (2) 12:3;64:5</p> <p>steps (2) 65:2,4</p> <p>Stevens (7) 36:23;37:1,4,5; 44:9,10,11</p> <p>still (3) 10:11;81:17;83:6</p> <p>Storage (5) 23:5;30:7;31:7,17; 32:20</p> <p>Stover (1) 21:5</p> <p>strategy (1) 77:5</p> <p>stream (13) 70:7,12,17;72:2,11, 21;73:4,7,13,17,20;</p>	<p>74:5,5</p> <p>streams (3) 68:23;73:3;74:14</p> <p>street (1) 15:13</p> <p>stressors (1) 77:22</p> <p>stringent (4) 18:14,16,20;37:17</p> <p>strongly (1) 81:18</p> <p>structure (10) 14:11,18;23:5; 31:7;55:21;56:16,17; 57:12;59:15;60:8</p> <p>structured (1) 15:2</p> <p>Structures (3) 30:8;31:17;32:20</p> <p>stuck (2) 48:2;52:6</p> <p>Stuckey (1) 20:14</p> <p>study (1) 59:12</p> <p>stuff (1) 57:22</p> <p>subcategory (2) 79:3;80:5</p> <p>subdivision (3) 37:21;38:3;39:6</p> <p>Subject (3) 23:12;59:20;63:6</p> <p>submissions (1) 24:10</p> <p>submit (2) 69:2;71:21</p> <p>submitted (1) 71:5</p> <p>successful (1) 81:22</p> <p>sufficient (1) 46:7</p> <p>suggested (8) 30:10;33:1;36:21; 40:16;44:7;46:2; 48:11,17</p> <p>suggestions (1) 55:14</p> <p>Sulfur (2) 24:22;25:10</p> <p>summary (4) 9:5;68:19,22;69:11</p> <p>summer (4) 55:20;63:14;65:19; 84:23</p> <p>sunset (1) 18:3</p> <p>supply (2) 37:23,23</p> <p>Support (4) 63:9;69:17,17,18</p> <p>supported (1)</p>	<p>70:6</p> <p>supporting (3) 68:6;69:23;70:3</p> <p>supposed (1) 56:17</p> <p>sure (3) 7:14;58:13;60:12</p> <p>surface (1) 69:12</p> <p>surprised (1) 54:23</p> <p>sworn (1) 24:17</p> <p>System (15) 23:6;36:18;37:10, 13,16,20,23;38:2,5,6, 20,21;40:12;46:12; 71:18</p> <p>systems (2) 38:18;45:9</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>table (2) 7:16;23:21</p> <p>tackle (2) 11:19;13:1</p> <p>takeaways (1) 75:18</p> <p>talk (3) 15:20;57:18;80:1</p> <p>talked (2) 6:4;58:4</p> <p>target (1) 77:18</p> <p>targeted (1) 77:16</p> <p>task (1) 56:14</p> <p>tasked (2) 12:12;54:1</p> <p>teamed (1) 15:8</p> <p>Technical (1) 63:9</p> <p>Ted (1) 9:12</p> <p>temporary (1) 56:17</p> <p>ten (5) 38:14;44:23;57:10; 65:18;74:1</p> <p>tentative (1) 22:1</p> <p>term (1) 38:11</p> <p>terminology (1) 83:22</p> <p>terms (4) 38:1,7,8;58:1</p> <p>test (1) 80:22</p> <p>testify (2)</p>
--	--	---	--	--

<p>23:18,23 testimony (1) 7:5 thanks (2) 10:4;81:23 therefore (4) 27:1;39:13;46:15; 53:18 thinking (1) 10:22 though (2) 3:7;14:21 thought (1) 58:19 three (4) 20:1;59:23;64:7; 71:15 three-hour (1) 26:14 throughout (4) 31:7;63:12,17;66:2 throw (1) 47:19 thrown (1) 13:7 thus (1) 66:2 timely (1) 26:11 times (2) 66:6;74:1 tissue (3) 70:7;73:23;74:2 Title (5) 13:7;17:15,15; 37:17;59:18 TMDL (5) 71:2,3,7,17;72:14 TMDL's (2) 74:19;75:22 today (11) 5:11;7:7,9,13;9:4; 14:16;23:2;46:19; 56:1;81:6;84:16 today's (5) 7:11;8:15;23:19; 24:1,8 together (4) 48:2;52:6;56:14; 59:10 took (3) 6:1;11:14;14:14 top (2) 7:23;73:17 topic (1) 11:15 total (6) 65:17;71:3;73:12, 14;75:1,7 touch (1) 8:2 tough (1) 18:5</p>	<p>towards (2) 14:1;79:10 townships (2) 25:23;26:9 Tracking (1) 71:18 transcript (3) 24:8,9,12 treatment (2) 38:13,23 true (1) 66:4 try (3) 13:14;15:4;79:12 trying (7) 11:8,19;13:1,4,12; 15:22;81:21 turn (1) 8:23 twenty-five (1) 37:15 two (14) 10:7,7;12:4;14:9, 11,13;26:12,16; 31:14;46:3;48:2; 65:20,23;83:14 types (1) 75:19 typically (1) 63:14</p>	<p>78:5,15;80:8,18 updated (4) 26:2;31:5;32:1; 66:8 Updates (6) 23:6;25:12,16; 26:12,17;31:6 updating (1) 31:19 uploaded (2) 71:17;72:2 upon (3) 7:12;8:9,13 use (22) 11:22;65:8,11; 66:14;69:16,17,18; 70:1,2,6,8,13,16,18, 19;73:10;75:8;76:7; 79:1,3;80:3,5 used (6) 25:15;38:7;56:23; 68:23;72:6,16 uses (9) 68:6;69:15,16,20, 23,23;70:3,4;72:22 using (2) 14:3;64:10 utilize (4) 7:20;8:7,18;80:2 utilizing (1) 79:11</p>	<p>votes (8) 30:2;34:9;36:11; 41:21;43:19;50:3; 51:16;62:23</p> <p style="text-align: center;">W</p> <p>walking (1) 10:9 Walsh (5) 25:5,6,7;27:19; 28:2 warm (1) 65:19 warrant (1) 63:14 Washington (1) 6:2 Wasky (19) 5:16,17;29:17,18; 34:1,2;36:3,4;41:13, 14;43:8,9;49:18,19; 51:5,6,7;62:14,15 waste (19) 11:15,16,19,23; 12:5;23:7;45:11,12; 52:2,14;53:3,4,9,10; 54:18;56:12;59:16, 22;61:5 watching (1) 40:3 water (64) 13:22;23:6,6,15, 17;36:18;37:10,16, 20,22,23;38:2,5,6,18, 20,21;39:9,18;40:12; 44:5,15;45:9,10,16, 18;46:6,8,11,15; 47:11;48:4;53:7; 56:11;59:16,22;67:5, 8,13,23;68:3,4,9; 69:12,14,17,19,21; 70:2,23;71:1,5;72:1, 16,20;73:1,19;74:12, 15;75:2;76:2;77:1, 13;78:14 water-related (1) 45:6 Waters (7) 23:13;67:5;68:4,6; 69:12;72:19;75:23 Watershed (3) 67:14;77:17,23 waterway (1) 72:7 way (10) 11:6;17:19;19:7; 20:18,21;55:12; 72:15;82:10,14;83:8 Wayne (1) 79:8 ways (5) 15:1;57:14;58:2;</p>	<p>60:2,7 wean (1) 15:22 weather (4) 63:13;79:3;80:4; 82:18 Web (7) 8:22;24:6,13;66:9, 12;69:1;76:9 week (1) 24:6 weeks (1) 79:21 welcome (3) 5:22;6:13,15 wet (3) 79:3;80:4;82:18 what's (5) 16:7;17:4,10;26:1, 21 whirlwind (1) 10:8 whole (1) 17:17 whose (1) 58:14 Williams (4) 78:7;80:14,16; 81:15 wish (4) 23:18,23;64:22; 84:15 within (13) 10:14;11:7,12; 22:6;30:16;48:10; 52:22;59:21;60:7; 65:5;66:16,16;77:10 without (1) 12:18 wondering (1) 19:22 Wood (1) 81:5 wording (1) 38:17 words (1) 37:13 work (15) 10:11;11:8;53:23; 55:12,13;58:2,13; 59:4;66:15;80:21,21; 81:1;82:12;83:4,8 workaround (1) 83:20 worked (4) 6:11;21:6;59:15; 60:10 working (10) 11:13;13:17;14:1; 21:6;59:17;78:16,23; 79:10;81:21;83:9 works (2) 10:23;55:8</p>
	U			
	<p>UAA (2) 80:23;81:20 unanimously (1) 9:23 under (11) 15:16;19:8;23:14; 25:17;44:15;45:6,12; 46:14;53:1;60:1;67:7 understands (1) 6:10 unhealthy (3) 64:1,2,3 United (1) 31:8 units (1) 20:17 unlike (1) 17:14 unmute (2) 4:7;8:14 up (14) 8:3;11:11;12:11, 22;15:8;47:17;56:15; 57:19;59:14;66:11; 67:21;76:13;77:6; 79:21 upcoming (1) 22:10 update (7) 15:19;23:15;26:11;</p>	V		
		<p>Valiquett (2) 4:4,23 variations (2) 37:21;38:6 various (1) 57:4 VI (1) 13:7 via (3) 7:19;8:18;23:22 view (1) 69:1 virtually (3) 10:5;40:4;84:16 VOC (2) 64:16;65:22 VOC's (2) 64:12,13 voice (1) 9:19 volatile (2) 64:11;73:21 vote (13) 9:20;28:19;33:7; 34:13,14,14,20,22, 23;39:16;42:6;46:16; 50:11 voted (2) 34:22,22</p>		

world (1) 12:8	41:22;43:20;50:4; 51:17;63:1	65:14	3.2 (1) 45:13	44:1;47:7
worse (1) 64:2	12,000 (1) 73:19	1st (3) 45:3,4;68:12	30 (1) 56:10	5-3-17 (2) 44:4;47:10
writer (4) 30:15;37:6;44:12; 52:22	1226 (1) 11:18	2	300 (1) 76:1	5-3-17a2 (1) 46:1
written (3) 24:8;71:2,4	12th (1) 30:18	2 (2) 70:1,19	303d (14) 23:14;67:7;68:3,8, 12,17;69:9;70:22; 71:16;72:4,19;75:16; 76:6,9	5-3-2 (2) 44:1;47:7
Y	13 (1) 17:15	20 (3) 30:7;31:8;32:19	305b (6) 67:23;68:8,11; 71:16;76:6,8	6
year (6) 18:10;45:15;65:18; 72:2;76:1;77:8	13-16 (2) 44:18,21	2003 (1) 46:11	3-1-1-14.1 (1) 52:11	6,522 (1) 72:23
years (12) 10:18;14:11;18:3, 3;38:19;56:9,10; 57:9;58:5,7;68:2; 77:9	13-18-10 (1) 45:6	2010 (2) 26:8,11	326 (7) 23:12;24:22,23; 28:8;36:16;63:6; 64:18	60 (1) 10:16
Z	13-18-20 (1) 45:7	2012 (3) 23:16;65:19;78:17	327 (43) 30:7;31:8,13;32:3, 19;36:16,16,17,17, 18;37:17,20;38:3,10; 39:5;40:9,10,10,10, 11,11;44:1,1,1,2,2,2, 3,4,4,4;46:1,3;47:6,7, 7,7,8,8,9,10,10,11	61 (1) 17:7
Zoom (3) 7:19;8:18;23:22	13-20-21 (1) 45:12	2015 (1) 25:18	329 (21) 52:11,11,12,12,13, 13,14;54:14,15,15, 16,16,17,17;61:2,3,3, 3,4,4,5	634 (1) 32:2
0	13-22-12 (1) 45:12	2019 (4) 44:16,17;56:19; 71:16	3-5-5 (2) 44:1;47:6	69 (1) 74:11
0 (9) 30:3;34:10,23; 36:12;41:22;43:20; 50:4;51:17;63:1	136 (1) 73:9	2020 (3) 20:2;74:9,13	38 (2) 77:10,11	7
1	13th (1) 24:4	2021 (6) 9:6;25:20;26:7; 30:18,19;31:23	4	70 (1) 63:21
1 (1) 69:21	1-4 (2) 24:22;28:8	2022 (7) 3:1.5,10;23:12; 45:3;67:5;68:13; 74:13	4 (4) 17:15;70:9;71:1,13	74 (1) 38:3
1,555 (1) 73:10	1-4-65 (1) 24:23	2023 (1) 45:4	4,303 (1) 72:20	8 (1) 37:16
1:30 (1) 3:11	14th (2) 25:20;68:15	20-5-5d (1) 32:3	4.3 (1) 10:19	81.315 (2) 25:16;26:2
1:34 (1) 3:1	15,000 (1) 73:5	21,000 (1) 73:6	40 (3) 25:16;26:2;77:11	8-10-1 (2) 36:18;40:11
10-11-1 (1) 54:16	15-16-10 (2) 44:2;47:8	21-515 (1) 25:9	4200 (1) 73:4	8-13 (2) 23:12;63:6
10-11-8 (2) 52:13;61:4	15-16-5 (2) 44:2;47:8	24 (1) 37:21	43 (1) 73:11	8-1-3 (2) 36:16;40:9
10-14-1 (3) 52:11;54:15;61:3	15-21-12 (1) 47:10	25 (2) 10:14;58:5	45-day (1) 68:14	8-13-4b8 (1) 64:19
104 (1) 74:13	15-3-4 (3) 52:12;54:15;61:3	250 (1) 76:1		8-2.5-2 (2) 36:16;40:10
10th (3) 9:6;26:6;30:19	15-3-7 (3) 52:14;54:17;61:5	250- (1) 44:16		8-2.5-2b2 (1) 38:10
11 (2) 14:14;30:3	15-4-3 (3) 52:12;54:16;61:3	250-2019 (3) 45:1;53:5,21		8-2-1 (3) 36:16;38:3;40:10
1100 (3) 17:6;55:9,9	18 (2) 18:9;39:6	27 (2) 14:12;58:6		8-3.4-1 (3) 36:17;37:20;40:10
11-9-4.1 (3) 52:13;54:17;61:4	19 (1) 31:13	28th (1) 68:16		8-3-7 (2) 44:2;47:7
11th (1) 78:20	1971 (1) 26:14	29 (1) 17:7		8-4.1-1 (2) 36:17;40:11
12 (8) 34:10,23;36:12;	19-7-1 (2) 44:3;47:9	3		8-4.1-8 (1) 39:5
	19-7-1a3 (1) 46:3	3 (1) 70:4	5	9
	19-9-2 (2) 44:5;47:11	3,030 (1) 75:22	5 (5) 70:9,11,18,21; 74:20	9 (1) 3:1.5
	1996 (2) 46:11;53:14	3.1-1-14.1 (2) 54:14;61:2	5-21-12 (1) 44:4	90 (3) 25:13;26:18;59:7
	1997 (1) 46:12		5-21-3 (2)	
	1998 (1)			

90-something (1)
20:15
91 (1)
74:14
92 (2)
25:13;74:12
93 (1)
59:5
94 (1)
59:5
9th (1)
3:10